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Legislative History – Montana Session Law

Chapter: 235

Session L: 2013

Bill Number:

Checklist of Bill History

History and Final Status Sheet



Introduced Bill



Fiscal Note



Third Reading Bill



Final Version of Bill



House

Committee: Natural Resources

Hearing Date(s): 1/16/2013

Committee Report: 1/25/2013

Senate

Committee: Natural Resources

Hearing Date(s): 3/8/2013

Committee Report: 3/15/2013

Conference Committee

Hearing Date(s):

Conference Committee Report:

Compiler Notes

Compiled by: SK Marshall

Date: 7/21/2025

Notes: Audio/Video recordings can be found here:

<https://sg001-harmony.sliq.net/00309/Harmony/en/PowerBrowser/PowerBrowserV2/20130116/-1/19496>

NOTE – On the notes for the Senate committee hearing on 3/8/13, there are no mentions of the bill. However, if you listen to the committee hearing on the Legislative website, there is discussion.

Thank you!



AN ACT CREATING THE STATE PARKS AND RECREATION BOARD; PROVIDING POWERS AND DUTIES; GRANTING RULEMAKING AUTHORITY; RENAMING THE FISH, WILDLIFE, AND PARKS COMMISSION; AMENDING SECTIONS 2-15-3110, 2-15-3113, 2-15-3401, 2-15-3402, 2-15-3404, 23-1-101, 23-1-102, 23-1-106, 23-1-108, 23-1-110, 23-1-121, 23-1-122, 23-2-301, 23-2-403, 23-2-404, 23-2-408, 23-2-410, 37-47-310, 75-1-220, 77-1-405, 85-2-102, 87-1-101, 87-1-106, 87-1-202, 87-1-209, 87-1-218, 87-1-301, 87-1-303, 87-1-401, 87-1-622, AND 87-4-432, MCA; AND PROVIDING AN EFFECTIVE DATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. State parks and recreation board -- composition. (1) There is a state parks and recreation board.

(2) The board consists of five members appointed by the governor, as prescribed in 2-15-124. The governor shall appoint one member from each of the following districts:

(a) District No. 1, consisting of Lincoln, Flathead, Sanders, Lake, Mineral, Missoula, Powell, Ravalli, Granite, and Lewis and Clark Counties;

(b) District No. 2, consisting of Deer Lodge, Silver Bow, Beaverhead, Madison, Jefferson, Broadwater, Gallatin, Park, and Sweet Grass Counties;

(c) District No. 3, consisting of Glacier, Toole, Liberty, Hill, Pondera, Teton, Chouteau, Cascade, Judith Basin, Fergus, Blaine, Meagher, and Wheatland Counties;

(d) District No. 4, consisting of Phillips, Valley, Daniels, Sheridan, Roosevelt, Petroleum, Garfield, McCone, Richland, Dawson, and Wibaux Counties;

(e) District No. 5, consisting of Golden Valley, Musselshell, Stillwater, Carbon, Yellowstone, Big Horn, Treasure, Rosebud, Custer, Powder River, Carter, Fallon, and Prairie Counties.

(3) Appointments must be made without regard to political affiliation and must be made solely for the wise management of state parks and outdoor recreational resources administered pursuant to Title 23, chapter 1, and Title 23, chapter 2, parts 1, 4, and 9.

(4) A person appointed to the board must be informed or experienced in the conservation and protection of state parks, heritage resources, natural resources, tourism promotion and development, or outdoor recreation.

(5) A vacancy on the board must be filled by the governor in the same manner and from the district in which the vacancy occurs.

(6) The board is designated as a quasi-judicial board for purposes of 2-15-124, except that the requirement that at least one member be an attorney does not apply.

Section 2. Powers and duties of board -- rulemaking -- meetings. (1) Except as provided in subsection (2), for state parks, primitive parks, state recreational areas, public camping grounds, state historic sites, state monuments, and other heritage and recreational resources, land, and water administered pursuant to Title 23, chapter 1, and Title 23, chapter 2, parts 1, 4, and 9, the board shall:

(a) set the policies and provide direction to the department for:

(i) the management, protection, conservation, and preservation of these properties, lands, and waters and their appropriate role relative to tourism and the economic health of Montana;

(ii) coordinating, integrating, promoting, and furthering opportunities for education and recreation at these sites, including but not limited to camping, hiking, snowmobiling, off-highway vehicle use, horseback riding, mountain biking, boating, and swimming;

(b) work with the commission to maintain hunting and angling opportunities on these lands and waters;

(c) establish the rules of the department governing the use of these properties and lands. The rules must be adopted in the interest of public health, public safety, public welfare, and protection of property and public resources in regulating recreation, including picnicking, camping, and swimming, and sanitation. These rules are subject to review and approval by the department of public health and human services with regard to issues of public health and sanitation before becoming effective. Copies of the rules must show that endorsement.

(d) review and approve all acquisitions or transfers of interest in these properties, lands, and waters by the department, except as provided in 87-1-209(4);

(e) review and approve the budget of the department for the administration of these properties, lands, and waters prior to its transmittal to the office of budget and program planning;

(f) review and approve construction projects that have an estimated cost of more than \$5,000;

(g) work with local, state, and federal agencies to evaluate, integrate, coordinate, and promote

recreational opportunities statewide; and

(h) encourage citizen involvement in management planning for these properties, lands, and waters.

(2) Pursuant to 87-1-301(1), the board does not oversee department activities related to the administration of fishing access sites.

(3) The members of the board shall hold quarterly or other meetings for the transaction of business at times and places considered necessary and proper. The meetings must be called by the presiding officer or by a majority of the board and must be held at the time and place specified in the call for the meeting. A majority of the members constitutes a quorum for the transaction of any business. The board shall keep a record of all the business it transacts. The presiding officer and secretary shall sign all orders, minutes, or documents for the board.

Section 3. Section 2-15-3110, MCA, is amended to read:

"2-15-3110. Livestock loss board -- purpose, membership, and qualifications. (1) There is a livestock loss board. The purpose of the board is to administer the programs called for in the Montana gray wolf management plan and established in 2-15-3111 through 2-15-3113, with funds provided through the accounts established in 81-1-110, in order to minimize losses caused by wolves to livestock producers and to reimburse livestock producers for livestock losses from wolf predation.

(2) The board consists of seven members, appointed by the governor, as follows:

(a) three members from a list of names recommended by the board of livestock;

(b) three members from a list of names recommended by the fish, and wildlife, ~~and parks~~ commission;
and

(c) one member of the general public.

(3) Each board member must have knowledge of or have experience in at least one of the following:

(a) the raising of livestock in Montana;

(b) livestock marketing, valuations, sales, or breeding associations;

(c) the interaction of wolves with livestock and livestock mortality caused by wolves;

(d) wildlife conservation;

(e) administration; and

(f) fundraising.

(4) The board is designated as a quasi-judicial board for the purposes of 2-15-124. Notwithstanding the provisions of 2-15-124(1), the governor is not required to appoint an attorney to serve as a member of the board.

(5) The board is allocated to the department of livestock for administrative purposes only as provided in 2-15-121.

(6) The board shall adopt rules to implement the provisions of 2-15-3110 through 2-15-3114 and 81-1-110 through 81-1-112."

Section 4. Section 2-15-3113, MCA, is amended to read:

"2-15-3113. Additional powers and duties of livestock loss board. (1) The livestock loss board shall:

- (a) process claims;
- (b) seek information necessary to ensure that claim documentation is complete;
- (c) provide payments authorized by the board for confirmed and probable livestock losses, along with a written explanation of payment;
- (d) submit monthly and annual reports to the board of livestock summarizing claims and expenditures and the results of action taken on claims and maintain files of all claims received, including supporting documentation;
- (e) provide information to the board of livestock regarding appealed claims and implement any decision by the board;
- (f) prepare the annual budget for the board; and
- (g) provide proper documentation of staff time and expenditures.

(2) The livestock loss board may enter into an agreement with any Montana tribe, if the tribe has adopted a wolf management plan for reservation lands that is consistent with the state wolf management plan, to provide that tribal lands within reservation boundaries are eligible for mitigation grants pursuant to 2-15-3111 and that livestock losses on tribal lands within reservation boundaries are eligible for reimbursement payments pursuant to 2-15-3112.

(3) The livestock loss board shall:

- (a) coordinate and share information with state, federal, and tribal officials, livestock producers, nongovernmental organizations, and the general public in an effort to reduce livestock losses caused by wolves;
- (b) establish an annual budget for the prevention, mitigation, and reimbursement of livestock losses

caused by wolves;

(c) perform or contract for the performance of periodic program audits and reviews of program expenditures, including payments to individuals, incorporated entities, and producers who receive loss reduction grants and reimbursement payments;

(d) adjudicate appeals of claims;

(e) investigate alternative or enhanced funding sources, including possible agreements with public entities and private wildlife or livestock organizations that have active livestock loss reimbursement programs in place;

(f) meet as necessary to conduct business; and

(g) report annually to the governor, the legislature, members of the Montana congressional delegation, the board of livestock, the fish, and wildlife, ~~and parks~~ commission, and the public regarding results of the programs established in 2-15-3111 through 2-15-3113.

(4) The livestock loss board may sell or auction any wolf carcasses or parts of wolf carcasses received pursuant to 87-1-217. The proceeds, minus the costs of the sale including the preparation of the carcass or part of the carcass for sale, must be deposited into the livestock loss reduction and mitigation special revenue account established in 81-1-110(2)(a) and used for the purposes of 2-15-3111 through 2-15-3114."

Section 5. Section 2-15-3401, MCA, is amended to read:

"2-15-3401. Department of fish, wildlife, and parks -- head. There is a department of fish, wildlife, and parks. The department head is the director of fish, wildlife, and parks appointed by the governor in accordance with 2-15-111. The director is the secretary of the:

(1) fish and wildlife commission established in 2-15-3402; and

(2) state parks and recreation board established in [section 1]."

Section 6. Section 2-15-3402, MCA, is amended to read:

"2-15-3402. Fish, and wildlife, ~~and parks~~ commission. (1) There is a fish, and wildlife, ~~and parks~~ commission.

(2) The commission consists of five members. At least one member must be experienced in the breeding and management of domestic livestock. The governor shall appoint one member from each of the following

districts:

(a) District No. 1, consisting of Lincoln, Flathead, Sanders, Lake, Mineral, Missoula, Powell, Ravalli, Granite, and Lewis and Clark Counties;

(b) District No. 2, consisting of Deer Lodge, Silver Bow, Beaverhead, Madison, Jefferson, Broadwater, Gallatin, Park, and Sweet Grass Counties;

(c) District No. 3, consisting of Glacier, Toole, Liberty, Hill, Pondera, Teton, Chouteau, Cascade, Judith Basin, Fergus, Blaine, Meagher, and Wheatland Counties;

(d) District No. 4, consisting of Phillips, Valley, Daniels, Sheridan, Roosevelt, Petroleum, Garfield, McCone, Richland, Dawson, and Wibaux Counties;

(e) District No. 5, consisting of Golden Valley, Musselshell, Stillwater, Carbon, Yellowstone, Big Horn, Treasure, Rosebud, Custer, Powder River, Carter, Fallon, and Prairie Counties.

(3) Appointments must be made without regard to political affiliation and must be made solely for the wise management of fish, wildlife, ~~and state parks and other outdoor~~ related recreational resources of this state. A person may not be appointed to the commission unless the person is informed or interested and experienced in the subject of fish, wildlife, ~~parks, and outdoor~~ recreation and the requirements for the conservation and protection of fish, wildlife, ~~parks, and outdoor~~ recreational resources.

(4) A vacancy occurring on the commission must be filled by the governor in the same manner and from the district in which the vacancy occurs.

(5) The fish, and wildlife, ~~and parks~~ commission is designated as a quasi-judicial board for purposes of 2-15-124. Notwithstanding the provisions of 2-15-124(1), the governor is not required to appoint an attorney to serve as a member of the commission."

Section 7. Section 2-15-3404, MCA, is amended to read:

"2-15-3404. Fish, wildlife, and parks crimestoppers board. (1) There is a fish, wildlife, and parks crimestoppers board.

(2) (a) The board consists of five members, four of whom are appointed by the director of the department of fish, wildlife, and parks; as follows:

(i) a person within the department responsible for the enforcement of fish and wildlife laws;

(ii) a member of a hunter's, angler's, or conservation group;

(iii) a member who is actively engaged in agricultural production; and

(iv) a member of the public with an interest in parks and recreation.

(b) The fifth member is a member of the fish, and wildlife, ~~and parks~~ commission who must be designated by the commission.

(3) The board shall elect a presiding officer from its members.

(4) A member must be appointed for a term of 2 years and may be reappointed.

(5) (a) A vacancy must be filled within 14 days of occurrence in the same manner as the original appointment.

(b) A vacancy does not impair the right of the remaining members to exercise the powers of the board.

(6) The board is allocated to the department of fish, wildlife, and parks for administrative purposes only as provided in 2-15-121."

Section 8. Section 23-1-101, MCA, is amended to read:

"23-1-101. ~~Purpose~~ Purposes -- definitions. (1) For the ~~purpose~~ purposes of conserving the scenic, historic, archaeologic, scientific, and recreational resources of the state, ~~and~~ providing for their use and enjoyment, ~~thereby~~ and contributing to the cultural, recreational, and economic life of the people and their health, the department of fish, wildlife, and parks (hereinafter referred to as department) ~~is and board are hereby~~ vested with the duties and powers ~~hereinafter~~ set forth in this part.

(2) For the purposes of this part, the following definitions apply:

(a) "Board" means the state parks and recreation board established in [section 1].

(b) "Commission" means the fish and wildlife commission established in 2-15-3402.

(c) "Department" means the department of fish, wildlife, and parks established in 2-15-3401.

(d) "Director" means the director of fish, wildlife, and parks as provided in 2-15-3401."

Section 9. Section 23-1-102, MCA, is amended to read:

"23-1-102. Powers and duties of department of fish, wildlife, and parks. (1) The department shall make a study to determine the scenic, historic, archaeologic, scientific, and recreational resources of the state. ~~The~~ The department may:

(a) by purchase, lease, agreement, or acceptance of donations acquire for the state any areas, sites,

or objects that in its opinion should be held, improved, and maintained as state parks, state recreational areas, state monuments, or state ~~historical~~ historic sites; ~~The department, with the consent of the commission, may~~

(b) with the consent of the board, acquire by condemnation, pursuant to Title 70, chapter 30, lands or structures for the purposes provided in 87-1-209(2);

~~(2)(c) The department may accept in the name of the state, in fee or otherwise, any areas, sites, or objects conveyed, entrusted, donated, or devised to the state; and~~

(d) lease those portions of designated lands that are necessary for the proper administration of the lands in keeping with the basic purposes of this part.

~~(2) ‡~~ The department may accept gifts, grants, bequests, or contributions of money or other property to be spent or used for any of the purposes of this part.

(3) A contract, for any of the purposes of this part, may not be entered into or another obligation incurred until money has been appropriated by the legislature or is otherwise available. If the contract or obligation pertains to acquisition of areas or sites in excess of either 100 acres or \$100,000 in value, the board of land commissioners shall specifically approve the acquisition.

(4) The department has jurisdiction, custody, and control of all state parks, recreational areas, public camping grounds, ~~historical~~ historic sites, and monuments, except wayside camps and other public conveniences acquired, improved, and maintained by the department of transportation and contiguous to the state highway system. The department may designate lands under its control as state parks, state ~~historical~~ historic sites, or state monuments; or by any other designation that it considers appropriate. The department may remove or change the designation of any area or portion of an area and may name or change the name of any area. ~~The department may lease those portions of designated lands that are necessary for the proper administration of the lands in keeping with the basic purpose of this part."~~

Section 10. Section 23-1-106, MCA, is amended to read:

"23-1-106. Rules -- penalties -- enforcement. (1) The department and the board may make rules governing the use, occupancy, and protection of the property under ~~its~~ their control.

(2) ~~Any~~ A person who violates ~~any of the rules made by the department~~ subsection (3) or a rule established pursuant to subsection (1) this section is guilty of a misdemeanor and shall be fined not more than \$500 or be imprisoned in the county jail for not more than 6 months.

(3) ~~It is unlawful and a misdemeanor punishable as provided in subsection (2) to~~ A person may not refuse to exhibit for inspection any park permit, proof of age, or proof of residency upon request by a fish and game warden, park ranger, or peace officer.

(4) The department shall enforce the provisions of this chapter and rules implementing this chapter. The director ~~of the department~~ shall employ all necessary and qualified personnel for enforcement purposes.

(5) The department is a criminal justice agency for the purpose of obtaining the technical assistance and support services provided by the board of crime control under the provisions of 44-4-301. Authorized officers of the department are granted peace officer status with the power:

- (a) of search, seizure, and arrest;
- (b) to investigate activities in this state regulated by this chapter and rules of the department and the ~~fish, wildlife, and parks commission board~~; and
- (c) to report violations to the county attorney of the county in which they occur."

Section 11. Section 23-1-108, MCA, is amended to read:

"23-1-108. Acquisition of certain state parks, monuments, or ~~historical~~ historic sites. (1) Any person, association, or representative of a governing unit may submit a proposal for the acquisition of a site or area described in 23-1-102 from the income of the trust fund created in 15-35-108 to the department ~~of fish, wildlife, and parks~~ by July 1 of the year preceding the convening of a legislative session.

(2) The ~~fish, wildlife, and parks commission board~~ shall present to the legislature by the 15th day of any legislative session a list of areas, sites, or objects that were proposed for purchase for use as state parks, state recreational areas, state monuments, or state ~~historical~~ historic sites with the money contained in the parks account.

(3) The legislature must appropriate funds from this account before any park, area, monument, or site may be purchased."

Section 12. Section 23-1-110, MCA, is amended to read:

"23-1-110. Improvement or development of state park or fishing access site -- required public involvement -- rules. (1) ~~The fish, wildlife, and parks commission shall adopt rules establishing a policy whereby any~~ Any proposed improvement or development of a state park or fishing access site that significantly

changes park or fishing access site features or use patterns is subject to notice of proposed modifications, both statewide and locally, and to opportunity for a public meeting and public comment on the advisability and acceptability of the proposal. Rules to govern the notice, meeting, and comment process must be adopted:

- (a) for state parks by the board; and
- (b) for fishing access sites by the commission.

(2) The department shall prepare a public report regarding any project that is subject to the provisions of subsection (1). The report must include conclusions relating to the following aspects of the proposal:

- (a) the desires of the public as expressed to the department;
- (b) the capacity of the park or fishing access site for development;
- (c) environmental impacts associated with the improvement or development;
- (d) the long-range maintenance of the improvements;
- (e) the protection of natural, cultural, and historical park or fishing access site features;
- (f) potential impacts on tourism; and
- (g) site-specific modifications as they relate to the park or fishing access site system as a whole."

Section 13. Section 23-1-121, MCA, is amended to read:

"23-1-121. Park rangers -- qualifications -- powers and duties. (1) The department is authorized to establish a corps of park rangers and to select and appoint park rangers who must be qualified by their experience, training, skill, and interest in the protection, conservation, and stewardship of the natural and cultural resources and parks administered by the department.

(2) Park rangers shall:

(a) enforce the laws of this state and the rules of the department and the fish, wildlife, and parks commission board that provide for the protection, conservation, and stewardship of the natural and cultural resources in the state parks system-;

~~(3) Park rangers shall~~

- (b) protect campers, picnickers, and other park users;
- (c) keep the peace;
- (d) supervise public use; and
- (e) maintain public order in all units of the state parks system-; and

~~(4)(f) Park rangers shall~~ perform all other duties prescribed by the department."

Section 14. Section 23-1-122, MCA, is amended to read:

"23-1-122. Enforcement powers of park rangers and game wardens. (1) Park rangers appointed pursuant to 23-1-121 and fish and game wardens appointed pursuant to 87-1-501 are authorized officers with the authority to enforce the laws and adopted rules relating to parks and outdoor recreation contained in chapters 1 and 2 of this title, except chapter 2, part 7.

(2) An authorized officer may:

(a) arrest, in accordance with Title 46, chapter 6, any person within an area managed by the department upon probable cause to believe that the person has committed an offense against chapters 1 and 2 of this title, except chapter 2, part 7, or rules of the department, the board, or the ~~fish, wildlife, and parks~~ commission;

(b) enforce the disorderly conduct and public nuisance laws under 45-8-101 and 45-8-111 as they apply to the operation of motorboats on waters within areas managed by the department under this part; and

(c) exercise other powers of peace officers in the enforcement of:

(i) laws relating to parks and outdoor recreation contained in chapters 1 and 2 of this title, except chapter 2, part 7;

(ii) rules of the department, the board, and the ~~fish, wildlife, and parks~~ commission; and

(iii) judgments obtained for violations of the laws and rules specified in this subsection (2)(c)."

Section 15. Section 23-2-301, MCA, is amended to read:

"23-2-301. Definitions. For purposes of this part, the following definitions apply:

(1) "Barrier" means an artificial obstruction located in or over a water body, restricting passage on or through the water, that totally or effectively obstructs the recreational use of the surface water at the time of use. A barrier may include but is not limited to a bridge or fence or any other artificial obstacle to the natural flow of water.

(2) "Class I waters" means surface waters, other than lakes, that:

(a) lie within the officially recorded federal government survey meander lines of the waters;

(b) flow over lands that have been judicially determined to be owned by the state by reason of application of the federal navigability test for state streambed ownership;

(c) are or have been capable of supporting the following commercial activities: log floating, transportation of furs and skins, shipping, commercial guiding using multiperson watercraft, public transportation, or the transportation of merchandise, as these activities have been defined by published judicial opinion as of April 19, 1985; or

(d) are or have been capable of supporting commercial activity within the meaning of the federal navigability test for state streambed ownership.

(3) "Class II waters" means all surface waters that are not class I waters, except lakes.

(4) "Commission" means the fish, and wildlife, ~~and parks~~ commission provided for in 2-15-3402.

(5) "Department" means the department of fish, wildlife, and parks provided for in 2-15-3401.

(6) "Diverted away from a natural water body" means a diversion of surface water through a constructed water conveyance system, including but not limited to:

(a) an irrigation or drainage canal or ditch;

(b) an industrial, municipal, or domestic water system, excluding the lake, stream, or reservoir from which the system obtains water;

(c) a flood control channel; or

(d) a hydropower inlet and discharge facility.

(7) "Lake" means a body of water where the surface water is retained by either natural or artificial means and the natural flow of water is substantially impeded.

(8) "Occupied dwelling" means a building used for a human dwelling at least once a year.

(9) "Ordinary high-water mark" means the line that water impresses on land by covering it for sufficient periods to cause physical characteristics that distinguish the area below the line from the area above it. Characteristics of the area below the line include, when appropriate, but are not limited to deprivation of the soil of substantially all terrestrial vegetation and destruction of its agricultural vegetative value. A flood plain adjacent to surface waters is not considered to lie within the surface waters' high-water marks.

(10) "Recreational use" means with respect to surface waters: fishing, hunting, swimming, floating in small craft or other flotation devices, boating in motorized craft unless otherwise prohibited or regulated by law, or craft propelled by oar or paddle, other water-related pleasure activities, and related unavoidable or incidental uses.

(11) "Supervisors" means the board of supervisors of a soil conservation district, the directors of a grazing district, or the board of county commissioners if a request pursuant to 23-2-311(3)(b) is not within the boundaries

of a conservation district or if the request is refused by the board of supervisors of a soil conservation district or the directors of a grazing district.

(12) "Surface water" means, for the purpose of determining the public's access for recreational use, a natural water body, its bed, and its banks up to the ordinary high-water mark."

Section 16. Section 23-2-403, MCA, is amended to read:

"23-2-403. Definitions. As used in this part, the following definitions apply:

(1) "Board" means the state parks and recreation board established in [section 1].

(1)(2) "Commission" means the fish, and wildlife, ~~and parks~~ commission ~~provided for~~ established in 2-15-3402.

(2)(3) "Department" means the department of fish, wildlife, and parks provided for in 2-15-3401."

Section 17. Section 23-2-404, MCA, is amended to read:

"23-2-404. Applicability. This part applies to that portion of the Smith River waterway located in Meagher and Cascade Counties lying between the Camp Baker ~~state fishing access site~~ in Meagher County and the confluence of the Smith River with the Missouri River. This description does not prevent the department from naming or renaming areas pursuant to 23-1-102."

Section 18. Section 23-2-408, MCA, is amended to read:

"23-2-408. Rulemaking authority. The ~~commission~~ board has authority to provide for the administration of the Smith River waterway. The ~~commission~~ board may adopt rules to:

(1) regulate and allocate recreational and commercial floating and camping to preserve the biological and social benefits of recreational and commercial use of the Smith River waterway in its natural state. Recreational use may be restricted to preserve the experience of floating, fishing, and camping in a natural environment and to protect the river's fish, wildlife, water, and canyon resources. The restrictions must:

(a) consider the tolerance of adjacent landowners to recreational use;

(b) consider the capability of the river and adjoining lands to accommodate floating and camping use;

and

(c) ensure an acceptable level of user satisfaction, including minimizing user conflicts and providing for

a level of solitude.

(2) restrict recreational use, if necessary, through the implementation of a permit system. An allocation of a portion of the permits may be made to licensed outfitters to preserve the availability of outfitting services to the public.

(3) regulate the activities of recreational and commercial users of the water and land in the Smith River waterway that are legally accessible to the public and regulate the land in the river corridor that is under the control of the department and ~~commission~~ the board:

- (a) for the purposes of safety, health, and protection of property;
 - (b) to preserve the experience of floating, fishing, and camping in a natural environment;
 - (c) to protect the river's fish, wildlife, water, and canyon resources; and
 - (d) to minimize conflicts between recreationists and private landowners; and
- (4) establish recreational and commercial user fees for floating and camping on the Smith River waterway."

Section 19. Section 23-2-410, MCA, is amended to read:

"23-2-410. Penalty -- enforcement. (1) A person who violates a rule of the ~~commission~~ board adopted pursuant to this part is guilty of a misdemeanor punishable by a fine of not less than \$50 or more than \$500; or by imprisonment in a county jail for not more than 6 months, ~~or by both fine and imprisonment.~~

(2) The department is a criminal justice agency for the purpose of obtaining the technical assistance and support services provided by the board of crime control under the provisions of 44-4-301. Authorized officers of the department are granted peace officer status with the power:

- (a) of search, seizure, and arrest;
- (b) to investigate activities in this state regulated by this part and rules of the department, the board, and the commission; and
- (c) to report violations to the county attorney of the county in which they occur."

Section 20. Section 37-47-310, MCA, is amended to read:

"37-47-310. Transfer or amendment of outfitter's license -- transfer of river-use days to new owner of fishing outfitter business. (1) An outfitter's license may not be transferred.

(2) An individual person may, upon proper showing, have that person's outfitter's license amended to indicate that the license is being held for the use and benefit of a named proprietorship, partnership, or corporation.

(3) Subject to approval by the board, a person designated by the family of an outfitter who is deceased or incapacitated due to physical or mental disease or injury or who is unable to carry out the responsibilities of an outfitter due to the outfitter's status as an active member of the military may continue to provide outfitting services for the outfitter's unexpired license year, or until the family sells the outfitting business, until the designee obtains an outfitter license.

(4) (a) When a fishing outfitter's business is sold or transferred in its entirety, any river-use days that have been allocated to that fishing outfitter through the fishing outfitter's historic use of or activities on restricted-use streams are transferable to the new owner of the fishing outfitter's business. Upon the sale or transfer of a fishing outfitter's business, the outfitter who sells or transfers the business shall notify the new owner that the use of any transferred river-use days is subject to change pursuant to rules adopted by the fish; and wildlife, ~~and parks~~ commission and that a property right does not attach to the transferred river-use days.

(b) Any transferred river-use days on the Smith River are subject to change pursuant to rules adopted by the state parks and recreation board pursuant to 23-2-408."

Section 21. Section 75-1-220, MCA, is amended to read:

"75-1-220. Definitions. For the purposes of this part, the following definitions apply:

(1) "Alternatives analysis" means an evaluation of different parameters, mitigation measures, or control measures that would accomplish the same objectives as those included in the proposed action by the applicant. For a project that is not a state-sponsored project, it does not include an alternative facility or an alternative to the proposed project itself. The term includes alternatives required pursuant to Title 75, chapter 20.

(2) "Appropriate board" means, for administrative actions taken under this part by the:

(a) department of environmental quality, the board of environmental review, as provided for in 2-15-3502;
 (b) department of fish, wildlife, and parks, the fish; and wildlife, ~~and parks~~ commission, as provided for in 2-15-3402, and the state parks and recreation board, as provided for in [section 1];

(c) department of transportation, the transportation commission, as provided for in 2-15-2502;

(d) department of natural resources and conservation for state trust land issues, the board of land

commissioners, as provided for in Article X, section 4, of the Montana constitution;

(e) department of natural resources and conservation for oil and gas issues, the board of oil and gas conservation, as provided for in 2-15-3303; and

(f) department of livestock, the board of livestock, as provided for in 2-15-3102.

(3) "Complete application" means, for the purpose of complying with this part, an application for a permit, license, or other authorization that contains all data, studies, plans, information, forms, fees, and signatures required to be included with the application sufficient for the agency to approve the application under the applicable statutes and rules.

(4) "Cumulative impacts" means the collective impacts on the human environment within the borders of Montana of the proposed action when considered in conjunction with other past, present, and future actions related to the proposed action by location or generic type.

(5) "Environmental review" means any environmental assessment, environmental impact statement, or other written analysis required under this part by a state agency of a proposed action to determine, examine, or document the effects and impacts of the proposed action on the quality of the human and physical environment within the borders of Montana as required under this part.

(6) "Project sponsor" means any applicant, owner, operator, agency, or other entity that is proposing an action that requires an environmental review. If the action involves state agency-initiated actions on state trust lands, the term also includes each institutional beneficiary of any trust as described in The Enabling Act of Congress (approved February 22, 1899, 25 Stat. 676), as amended, the Morrill Act of 1862 (7 U.S.C. 301 through 308), and the Morrill Act of 1890 (7 U.S.C. 321 through 329).

(7) "Public scoping process" means any process to determine the scope of an environmental review.

(8) (a) "State-sponsored project" means:

(i) a project, program, or activity initiated and directly undertaken by a state agency;

(ii) except as provided in subsection (8)(b)(i), a project or activity supported through a contract, grant, subsidy, loan, or other form of funding assistance from a state agency, either singly or in combination with one or more other state agencies; or

(iii) except as provided in subsection (8)(b)(i), a project or activity authorized by a state agency acting in a land management capacity for a lease, easement, license, or other authorization to act.

(b) The term does not include:

(i) a project or activity undertaken by a private entity that is made possible by the issuance of permits, licenses, leases, easements, grants, loans, or other authorizations to act by the:

(A) department of environmental quality pursuant to Titles 75, 76, or 82;

(B) department of fish, wildlife, and parks pursuant to Title 87, chapter 4, part 4;

(C) board of oil and gas conservation pursuant to Title 82, chapter 11; or

(D) department of natural resources and conservation or the board of land commissioners pursuant to Titles 76, 77, 82, and 85; or

(ii) a project or activity involving the issuance of a permit, license, certificate, or other entitlement for permission to act by another agency acting in a regulatory capacity, either singly or in combination with other state agencies."

Section 22. Section 77-1-405, MCA, is amended to read:

"77-1-405. Island parks established -- development limited. (1) In order to retain the integrity of the recreational experience associated with Montana's river and lake islands, development of undisputed state-owned or state-leased island property, which is hereby designated as island parks, including islands designated as state property under 70-18-203, lying within and surrounded by a navigable river, stream, or lake is limited, after April 30, 1997, to:

(a) the installation of minimal signage indicating that the island is a designated island park in which development has been limited and encouraging the public to help in maintaining the island park's primitive character by picking out trash;

(b) necessary latrine facilities if approved by the ~~fish, wildlife, and parks commission~~ state parks and recreation board established in [section 1];

(c) footings or pilings necessary for the construction of a bridge; and

(d) oil and gas leasing.

(2) Improvements made to and agricultural operations on state-owned or state-leased island property prior to April 30, 1997, may be maintained or continued, but further development is limited as provided in this section.

(3) Notwithstanding the provisions of 77-1-203 regarding multiple-use management, the legislature finds that the highest and best use of island property administered as school trust land, except islands designated as

natural areas pursuant to Title 76, chapter 12, is for recreation and grazing and that those islands should be left in as primitive state as possible to protect from the loss of potential future revenue that could result from the failure to leave the islands in an undeveloped condition.

(4) For purposes of this section, state ownership or state lease of island property is disputed if the dispute arises before, on, or after April 30, 1997."

Section 23. Section 85-2-102, MCA, is amended to read:

"85-2-102. Definitions. Unless the context requires otherwise, in this chapter, the following definitions apply:

(1) "Appropriate" means:

(a) to divert, impound, or withdraw, including by stock for stock water, a quantity of water for a beneficial use;

(b) in the case of a public agency, to reserve water in accordance with 85-2-316;

(c) in the case of the department of fish, wildlife, and parks, to change an appropriation right to instream flow to protect, maintain, or enhance streamflows to benefit the fishery resource in accordance with 85-2-436;

(d) in the case of the United States department of agriculture, forest service:

(i) instream flows and in situ use of water created in 85-20-1401, Article V; or

(ii) to change an appropriation right to divert or withdraw water under subsection (1)(a) to instream flow to protect, maintain, or enhance streamflows in accordance with 85-2-320;

(e) temporary changes or leases for instream flow to maintain or enhance instream flow to benefit the fishery resource in accordance with 85-2-408;

(f) a use of water for aquifer recharge or mitigation; or

(g) a use of water for an aquifer storage and recovery project as provided in 85-2-368.

(2) "Aquifer recharge" means either the controlled subsurface addition of water directly to the aquifer or controlled application of water to the ground surface for the purpose of replenishing the aquifer to offset adverse effects resulting from net depletion of surface water.

(3) "Aquifer storage and recovery project" means a project involving the use of an aquifer to temporarily store water through various means, including but not limited to injection, surface spreading and infiltration, drain fields, or another department-approved method. The stored water may be either pumped from the injection well

or other wells for beneficial use or allowed to naturally drain away for a beneficial use.

(4) "Beneficial use", unless otherwise provided, means:

(a) a use of water for the benefit of the appropriator, other persons, or the public, including but not limited to agricultural, stock water, domestic, fish and wildlife, industrial, irrigation, mining, municipal, power, and recreational uses;

(b) a use of water appropriated by the department for the state water leasing program under 85-2-141 and of water leased under a valid lease issued by the department under 85-2-141;

(c) a use of water by the department of fish, wildlife, and parks through a change in an appropriation right for instream flow to protect, maintain, or enhance streamflows to benefit the fishery resource authorized under 85-2-436;

(d) a use of water through a temporary change in appropriation right or lease to enhance instream flow to benefit the fishery resource in accordance with 85-2-408;

(e) a use of water for aquifer recharge or mitigation; or

(f) a use of water for an aquifer storage and recovery project as provided in 85-2-368.

(5) "Certificate" means a certificate of water right issued by the department.

(6) "Change in appropriation right" means a change in the place of diversion, the place of use, the purpose of use, or the place of storage.

(7) "Commission" means the fish, ~~and wildlife, and parks~~ commission provided for in 2-15-3402.

(8) "Correct and complete" means that the information required to be submitted conforms to the standard of substantial credible information and that all of the necessary parts of the form requiring the information have been filled in with the required information for the department to begin evaluating the information.

(9) "Declaration" means the declaration of an existing right filed with the department under section 8, Chapter 452, Laws of 1973.

(10) "Department" means the department of natural resources and conservation provided for in Title 2, chapter 15, part 33.

(11) "Developed spring" means any artificial opening or excavation in the ground, however made, including any physical alteration at the point of discharge regardless of whether it results in any increase in the yield of ground water, from which ground water is sought or can be obtained or through which it flows under natural pressures or is artificially withdrawn.

(12) "Existing right" or "existing water right" means a right to the use of water that would be protected under the law as it existed prior to July 1, 1973. The term includes federal non-Indian and Indian reserved water rights created under federal law and water rights created under state law.

(13) "Ground water" means any water that is beneath the ground surface.

(14) "Late claim" means a claim to an existing right forfeited pursuant to the conclusive presumption of abandonment under 85-2-226.

(15) "Mitigation" means the reallocation of surface water or ground water through a change in appropriation right or other means that does not result in surface water being introduced into an aquifer through aquifer recharge to offset adverse effects resulting from net depletion of surface water.

(16) "Municipality" means an incorporated city or town organized and incorporated under Title 7, chapter 2.

(17) "Permit" means the permit to appropriate issued by the department under 85-2-301 through 85-2-303 and 85-2-306 through 85-2-314.

(18) "Person" means an individual, association, partnership, corporation, state agency, political subdivision, the United States or any agency of the United States, or any other entity.

(19) (a) "Political subdivision" means any county, incorporated city or town, public corporation, or district created pursuant to state law or other public body of the state empowered to appropriate water.

(b) The term does not mean a private corporation, association, or group.

(20) "Salvage" means to make water available for beneficial use from an existing valid appropriation through application of water-saving methods.

(21) "State water reservation" means a water right created under state law after July 1, 1973, that reserves water for existing or future beneficial uses or that maintains a minimum flow, level, or quality of water throughout the year or at periods or for defined lengths of time.

(22) "Substantial credible information" means probable, believable facts sufficient to support a reasonable legal theory upon which the department should proceed with the action requested by the person providing the information.

(23) "Waste" means the unreasonable loss of water through the design or negligent operation of an appropriation or water distribution facility or the application of water to anything but a beneficial use.

(24) "Water" means all water of the state, surface and subsurface, regardless of its character or manner

of occurrence, including but not limited to geothermal water, diffuse surface water, and sewage effluent.

(25) "Water division" means a drainage basin as defined in 3-7-102.

(26) "Water judge" means a judge as provided for in Title 3, chapter 7.

(27) "Water master" means a master as provided for in Title 3, chapter 7.

(28) "Watercourse" means any naturally occurring stream or river from which water is diverted for beneficial uses. It does not include ditches, culverts, or other constructed waterways.

(29) "Well" means any artificial opening or excavation in the ground, however made, by which ground water is sought or can be obtained or through which it flows under natural pressures or is artificially withdrawn."

Section 24. Section 87-1-101, MCA, is amended to read:

"87-1-101. Definitions. Unless the context requires otherwise, in this title the following definitions apply:

(1) "Board" means the state parks and recreation board provided for in [section 1].

~~(1)(2)~~ "Commission" means the fish, and wildlife, ~~and parks~~ commission provided for in 2-15-3402.

~~(2)(3)~~ "Department" means the department of fish, wildlife, and parks provided for in Title 2, chapter 15, part 34.

~~(3)(4)~~ "Director" means the director of fish, wildlife, and parks provided for in 2-15-3401.

~~(4)(5)~~ "Warden" means a state fish and game warden."

Section 25. Section 87-1-106, MCA, is amended to read:

"87-1-106. Fish, wildlife, and parks offices. The principal offices of the commission, the board, and the department shall must be located in or near Helena, and suitable and adequate space therefor together with janitor services, light, heat, and water ~~shall~~ must be furnished by the state of Montana."

Section 26. Section 87-1-202, MCA, is amended to read:

"87-1-202. Publication of orders and rules. (1) Except as provided in subsection (2), annual and biennial rules adopted by the commission setting seasonal hunting, fishing, trapping, and land use regulations or by the board setting seasonal land use regulations must be published in a pamphlet format that is made available to the public at all department offices and through all license providers.

(2) Site-specific land use regulations applicable to a particular fishing access site, wildlife management

area, park site, or other department land, including but not limited to speed limits, road and off-road restrictions or closures, places where camping is allowed or prohibited, and seasonal closures for management purposes, must be indicated to the public by signs on the premises of the particular fishing access site, wildlife management area, park site, or other department land.

(3) (a) Commission orders setting management seasons, providing for game damage hunts, and closing special seasons pursuant to 87-1-304 may be published by:

- (i) use of the department's website;
- (ii) use of a telephone hotline number; or
- (iii) any other method that is readily available to the public.

(b) The method for notifying the public of the closure of a special season must be stated in the rule that establishes the special season.

(4) Public notification of emergency closures of department lands, public waterways, and hunting, fishing, and trapping seasons that are based on public health, safety, and welfare must be made in the manner and to the extent that the department considers necessary in light of the facts surrounding the emergency, including, when practical, onsite posting of the emergency closure."

Section 27. Section 87-1-209, MCA, is amended to read:

"87-1-209. (Temporary) Acquisition and sale of land or water. (1) Subject to 87-1-218 and subsection (8) of this section, the department, with the consent of the commission or the board and, in the case of land acquisition involving more than 100 acres or \$100,000 in value, the approval of the board of land commissioners, may acquire by purchase, lease, agreement, gift, or devise and may acquire easements upon land or water for the purposes listed in this subsection. Any acquisition of land or water rights for purposes of this subsection, except that portion of acquisitions made with funds provided under 87-1-242(1), must include an additional 20% above the purchase price to be used for maintenance of land or water acquired by the department. The additional amount above the purchase price or \$300,000, whichever is less, must be deposited in the account established in 87-1-230. As used in this subsection, "maintenance" means that term as defined in and consistent with the good neighbor policy in 23-1-127(2). The department may develop, operate, and maintain acquired land or water rights:

- (a) for fish hatcheries or nursery ponds;

(b) as land or water suitable for game, bird, fish, or fur-bearing animal restoration, propagation, or protection;

(c) for public hunting, fishing, or trapping areas;

(d) to capture, propagate, transport, buy, sell, or exchange any game, birds, fish, fish eggs, or fur-bearing animals needed for propagation or stocking purposes or to exercise control measures of undesirable species;

(e) for state parks and outdoor recreation;

(f) to extend and consolidate by exchange, land or water rights suitable for these purposes.

(2) The department, with the consent of the ~~commission~~ board, may acquire by condemnation, as provided in Title 70, chapter 30, land or structures for the preservation of ~~historical~~ historic or archaeological sites that are threatened with destruction or alteration.

(3) (a) Subject to section 2(3), Chapter 560, Laws of 2005, the department, with the consent of the ~~commission~~ or the board, may dispose of land and water rights acquired by it on those terms after public notice as required by subsection (3)(b) of this section, without regard to other laws that provide for sale or disposal of state land and with or without reservation, as it considers necessary and advisable. The department, with the consent of the ~~commission~~ or the board, may convey department land and water rights for full market value to other governmental entities or to adjacent landowners without regard to the requirements of subsection (3)(b) or (3)(c) if the land is less than 10 acres or if the full market value of the interest to be conveyed is less than \$20,000. When the department conveys land or water rights to another governmental entity or to an adjacent landowner pursuant to this subsection, the department, in addition to giving notice pursuant to subsection (3)(b), shall give notice by mail to the landowners whose property adjoins the department property being conveyed.

(b) Subject to section 2(3), Chapter 560, Laws of 2005, notice of sale describing the land or water rights to be disposed of must be published once a week for 3 successive weeks in a newspaper with general circulation printed and published in the county where the land or water right is situated or, if a newspaper is not published in that county, then in any newspaper with general circulation in that county.

(c) The notice must advertise for cash bids to be presented to the director within 60 days from the date of the first publication. Each bid must be accompanied by a cashier's check or cash deposit in an amount equal to 10% of the amount bid. The highest bid must be accepted upon payment of the balance due within 10 days after mailing notice by certified mail to the highest bidder. If that bidder defaults on payment of the balance due, then the next highest bidders must be similarly notified in succession until a sale is completed. Deposits must be

returned to the unsuccessful bidders except bidders defaulting after notification.

(d) The department shall reserve the right to reject any bids that do not equal or exceed the full market value of the land or water right as determined by the department. If the department does not receive a bid that equals or exceeds fair market value, it may then sell the land or water rights at private sale. The price accepted on any private sale must exceed the highest bid rejected in the bid process.

(4) When necessary and advisable for the management and use of department property, the director is authorized to grant or acquire from willing sellers right-of-way easements for purposes of utilities, roads, drainage facilities, ditches for water conveyance, and pipelines if the full market value of the interest to be acquired is less than \$20,000. Whenever possible, easements must include a weed management plan. Approval of the commission or the board is not required for grants and acquisitions made pursuant to this subsection. In granting any right-of-way pursuant to this subsection, the department shall obtain a fair market value, but the department is not otherwise required to follow the disposal requirements of subsection (3). The director shall report any easement grant or acquisition made pursuant to this subsection to the commission or the board at its next regular meeting.

(5) The department shall convey land and water rights without covenants of warranty by deed executed by the governor or in the governor's absence or disability by the lieutenant governor, attested by the secretary of state and further countersigned by the director.

(6) Subject to 87-1-218, the department, with the consent of the commission, is authorized to utilize the installment contract method to facilitate the acquisition of wildlife management areas in which game and nongame fur-bearing animals and game and nongame birds may breed and replenish and areas that provide access to fishing sites for the public. The total cost of installment contracts may not exceed the cost of purchases authorized by the department and appropriated by the legislature.

(7) The department is authorized to enter into leases of land under its control in exchange for services to be provided by the lessee on the leased land.

(8) Approval of the board for the acquisition or disposal of land or water pursuant to this section is required only for land and water administered under Title 23, chapter 1, or Title 23, chapter 2, parts 1 and 4.
(Terminates June 30, 2013--sec. 8, Ch. 427, L. 2009.)

87-1-209. (Effective July 1, 2013) Acquisition and sale of lands or waters. (1) Subject to 87-1-218 and subsection (8) of this section, the department, with the consent of the commission or the board and, in the

case of land acquisition involving more than 100 acres or \$100,000 in value, the approval of the board of land commissioners, may acquire by purchase, lease, agreement, gift, or devise and may acquire easements upon lands or waters for the purposes listed in this subsection. The department may develop, operate, and maintain acquired lands or waters:

- (a) for fish hatcheries or nursery ponds;
- (b) as lands or water suitable for game, bird, fish, or fur-bearing animal restoration, propagation, or protection;
- (c) for public hunting, fishing, or trapping areas;
- (d) to capture, propagate, transport, buy, sell, or exchange any game, birds, fish, fish eggs, or fur-bearing animals needed for propagation or stocking purposes or to exercise control measures of undesirable species;
- (e) for state parks and outdoor recreation;
- (f) to extend and consolidate by exchange, lands or waters suitable for these purposes.

(2) The department, with the consent of the ~~commission board~~, may acquire by condemnation, as provided in Title 70, chapter 30, lands or structures for the preservation of ~~historical~~ historic or archaeological sites that are threatened with destruction or alteration.

(3) (a) Subject to section 2(3), Chapter 560, Laws of 2005, the department, with the consent of the ~~commission~~ or the board, may dispose of lands and water rights acquired by it on those terms after public notice as required by subsection (3)(b) of this section, without regard to other laws that provide for sale or disposal of state lands and with or without reservation, as it considers necessary and advisable. The department, with the consent of the ~~commission~~ or the board, may convey department lands and water rights for full market value to other governmental entities or to adjacent landowners without regard to the requirements of subsection (3)(b) or (3)(c) if the land is less than 10 acres or if the full market value of the interest to be conveyed is less than \$20,000. When the department conveys land or water rights to another governmental entity or to an adjacent landowner pursuant to this subsection, the department, in addition to giving notice pursuant to subsection (3)(b), shall give notice by mail to the landowners whose property adjoins the department property being conveyed.

(b) Subject to section 2(3), Chapter 560, Laws of 2005, notice of sale describing the lands or waters to be disposed of must be published once a week for 3 successive weeks in a newspaper with general circulation printed and published in the county where the lands or waters are situated or, if a newspaper is not published in that county, then in any newspaper with general circulation in that county.

(c) The notice must advertise for cash bids to be presented to the director within 60 days from the date of the first publication. Each bid must be accompanied by a cashier's check or cash deposit in an amount equal to 10% of the amount bid. The highest bid must be accepted upon payment of the balance due within 10 days after mailing notice by certified mail to the highest bidder. If that bidder defaults on payment of the balance due, then the next highest bidders must be similarly notified in succession until a sale is completed. Deposits must be returned to the unsuccessful bidders except bidders defaulting after notification.

(d) The department shall reserve the right to reject any bids that do not equal or exceed the full market value of the lands and waters as determined by the department. If the department does not receive a bid that equals or exceeds fair market value, it may then sell the lands or water rights at private sale. The price accepted on any private sale must exceed the highest bid rejected in the bid process.

(4) When necessary and advisable for the management and use of department property, the director is authorized to grant or acquire from willing sellers right-of-way easements for purposes of utilities, roads, drainage facilities, ditches for water conveyance, and pipelines if the full market value of the interest to be acquired is less than \$20,000. Whenever possible, easements must include a weed management plan. Approval of the commission or the board is not required for grants and acquisitions made pursuant to this subsection. In granting any right-of-way pursuant to this subsection, the department shall obtain a fair market value, but the department is not otherwise required to follow the disposal requirements of subsection (3). The director shall report any easement grant or acquisition made pursuant to this subsection to the commission or the board at its next regular meeting.

(5) The department shall convey lands and water rights without covenants of warranty by deed executed by the governor or in the governor's absence or disability by the lieutenant governor, attested by the secretary of state and further countersigned by the director.

(6) Subject to 87-1-218, the department, with the consent of the commission, is authorized to utilize the installment contract method to facilitate the acquisition of wildlife management areas in which game and nongame fur-bearing animals and game and nongame birds may breed and replenish and areas that provide access to fishing sites for the public. The total cost of installment contracts may not exceed the cost of purchases authorized by the department and appropriated by the legislature.

(7) The department is authorized to enter into leases of land under its control in exchange for services to be provided by the lessee on the leased land.

(8) Approval of the board for the acquisition or disposal of land or water pursuant to this section is required only for land and water administered under Title 23, chapter 1, or Title 23, chapter 2, parts 1 and 4."

Section 28. Section 87-1-218, MCA, is amended to read:

"87-1-218. Notice of proposed land acquisitions. (1) For all land acquisitions proposed pursuant to 87-1-209, the department shall provide notice to the board of county commissioners in the county where the proposed acquisition is located.

(2) The notice must be provided at least 30 days before the proposed acquisition appears before the commission or the board for its consent.

(3) The notice must include:

(a) a description of the proposed acquisition, including acreage and the use proposed by the department;

(b) an estimate of the measures and costs the department plans to undertake in furtherance of the proposed use, including operating, staffing, and maintenance costs;

(c) an estimate of the property taxes payable on the proposed acquisition and a statement that if the department acquires the land pursuant to 87-1-603, the department would pay a sum equal to the amount of taxes that would be payable on the county assessment of the property if it was taxable to a private citizen; and

(d) a draft agenda of the meeting at which the proposed acquisition will be presented to the commission or the board and information on how the board of county commissioners may provide comment."

Section 29. Section 87-1-301, MCA, is amended to read:

"87-1-301. Powers of commission. (1) Except as provided in ~~subsection~~ subsections (7) and (8), the commission:

(a) shall set the policies for the protection, preservation, management, and propagation of the wildlife, fish, game, furbearers, waterfowl, nongame species, and endangered species of the state and for the fulfillment of all other responsibilities of the department related to fish and wildlife as provided by law;

(b) shall establish the hunting, fishing, and trapping rules of the department;

(c) except as provided in [section 2] and 87-1-303(3), shall establish the rules of the department governing the use of lands owned or controlled by the department and waters under the jurisdiction of the department;

(d) must have the power within the department to establish wildlife refuges and bird and game preserves;

(e) shall approve all acquisitions or transfers by the department of interests in land or water, except as provided in [section 2] and 87-1-209(4)(2) and (4);

(f) except as provided in [section 2], shall review and approve the budget of the department prior to its transmittal to the ~~budget~~ office of budget and program planning;

(g) except as provided in [section 2], shall review and approve construction projects that have an estimated cost of more than \$1,000 but less than \$5,000; and

(h) shall manage elk, deer, and antelope populations based on habitat estimates determined as provided in 87-1-322 and maintain elk, deer, and antelope population numbers at or below population estimates as provided in 87-1-323. In developing or implementing an elk management plan, the commission shall consider landowner tolerance when deciding whether to restrict elk hunting on surrounding public land in a particular hunting district. As used in this subsection (1)(h), "landowner tolerance" means the written or documented verbal opinion of an affected landowner regarding the impact upon the landowner's property within the particular hunting district where a restriction on elk hunting on public property is proposed.

(2) The commission may adopt rules regarding the use and type of archery equipment that may be employed for hunting and fishing purposes, taking into account applicable standards as technical innovations in archery equipment change.

(3) The commission may adopt rules regarding the establishment of special licenses or permits, seasons, conditions, programs, or other provisions that the commission considers appropriate to promote or enhance hunting by Montana's youth and persons with disabilities.

(4) (a) The commission may adopt rules regarding nonresident big game combination licenses to:

- (i) separate deer licenses from nonresident elk combination licenses;
- (ii) set the fees for the separated deer combination licenses and the elk combination licenses without the deer tag;
- (iii) condition the use of the deer licenses; and
- (iv) limit the number of licenses sold.

(b) The commission may exercise the rulemaking authority in subsection (4)(a) when it is necessary and appropriate to regulate the harvest by nonresident big game combination license holders:

- (i) for the biologically sound management of big game populations of elk, deer, and antelope;

(ii) to control the impacts of those elk, deer, and antelope populations on uses of private property; and

(iii) to ensure that elk, deer, and antelope populations are at a sustainable level as provided in 87-1-321 through 87-1-325.

(5) (a) Subject to the provisions of 87-2-115, the commission may adopt rules establishing license preference systems to distribute hunting licenses and permits:

(i) giving an applicant who has been unsuccessful for a longer period of time priority over an applicant who has been unsuccessful for a shorter period of time; and

(ii) giving a qualifying landowner a preference in drawings. As used in this subsection (5)(a), "qualifying landowner" means the owner of land that provides some significant habitat benefit for wildlife, as determined by the commission.

(b) The commission shall square the number of points purchased by an applicant per species when conducting drawings for licenses and permits.

(6) (a) The commission may adopt rules to:

(i) limit the number of nonresident mountain lion hunters in designated hunting districts; and

(ii) determine the conditions under which nonresidents may hunt mountain lion in designated hunting districts.

(b) The commission shall consider, but is not limited to consideration of, the following factors:

(i) harvest of lions by resident and nonresident hunters;

(ii) history of quota overruns;

(iii) composition, including age and sex, of the lion harvest;

(iv) historical outfitter use;

(v) conflicts among hunter groups;

(vi) availability of public and private lands; and

(vii) whether restrictions on nonresident hunters are more appropriate than restrictions on all hunters.

(7) The commission may not regulate the use or possession of firearms, firearm accessories, or ammunition, including the chemical elements of ammunition used for hunting. This does not prevent:

(a) the restriction of certain hunting seasons to the use of specified hunting arms, such as the establishment of special archery seasons;

(b) for human safety, the restriction of certain areas to the use of only specified hunting arms, including

bows and arrows, traditional handguns, and muzzleloading rifles;

(c) the restriction of the use of shotguns for the hunting of deer and elk pursuant to 87-6-401(1)(f);

(d) the regulation of migratory game bird hunting pursuant to 87-3-403; or

(e) the restriction of the use of rifles for bird hunting pursuant to 87-6-401(1)(g) or (1)(h).

(8) Pursuant to [section 2], the commission does not oversee department activities related to the administration of state parks, primitive parks, state recreational areas, public camping grounds, state historic sites, state monuments, and other heritage and recreational resources, land, and water administered pursuant to Title 23, chapter 1, and Title 23, chapter 2, parts 1, 4, and 9."

Section 30. Section 87-1-303, MCA, is amended to read:

"87-1-303. Rules for use of lands and waters. (1) Except as provided in [section 2], 87-1-301(7), and subsection (3) of this section, the commission may adopt and enforce rules governing uses of lands that are acquired or held under easement by the commission or lands that it operates under agreement with or in conjunction with a federal or state agency or private owner. The rules must be adopted in the interest of public health, public safety, and protection of property in regulating the use of these lands. All lease and easement agreements must itemize uses as listed in 87-1-209.

(2) Except as provided in 87-1-301(7), the commission may adopt and enforce rules governing recreational uses of all public fishing reservoirs, public lakes, rivers, and streams that are legally accessible to the public or on reservoirs and lakes that it operates under agreement with or in conjunction with a federal or state agency or private owner. These rules must be adopted in the interest of public health, public safety, public welfare, and protection of property and public resources in regulating swimming, hunting, fishing, trapping, boating, including but not limited to boating speed regulations, the operation of motor-driven boats, the operation of personal watercraft, the resolution of conflicts between users of motorized and nonmotorized boats, waterskiing, surfboarding, picnicking, camping, sanitation, and use of firearms on the reservoirs, lakes, rivers, and streams or at designated areas along the shore of the reservoirs, lakes, rivers, and streams. Areas regulated pursuant to the authority contained in this section must be areas that are legally accessible to the public. These rules are subject to review and approval by the department of public health and human services with regard to issues of public health and sanitation before becoming effective. Copies of the rules must show that endorsement.

(3) (a) The commission may not regulate or classify domestic livestock trailing as a commercial activity

or commercial use that is subject to licensing, permitting, or fee requirements. Domestic livestock trailing on land owned or controlled by the department is exempt from the requirements of Title 75, chapter 1, parts 1 through 3.

(b) The commission may authorize domestic livestock trailing across land owned or controlled by the department that is designated as a wildlife management area. The commission may adopt rules governing the timing of and the route to be used for domestic livestock trailing activities to the extent that the rules are necessary both to enable the trailing of domestic livestock across the designated wildlife management area and to protect and enhance state lands. The rules may not:

- (i) require a fee for domestic livestock trailing or related activities; or
- (ii) prohibit or unreasonably interfere with domestic livestock trailing activities.

(4) For the purposes of this section, the following definitions apply:

(a) "Domestic livestock" means domestic animals kept for farm and ranch purposes, including but not limited to horses, cattle, sheep, goats, and dogs.

(b) "Domestic livestock trailing" means the entering upon and crossing of department lands and the use of the lands for forage by domestic livestock for a maximum of 96 consecutive hours."

Section 31. Section 87-1-401, MCA, is amended to read:

"87-1-401. Director to carry out policies. The director shall carry out the policies of the commission and the board and shall adopt rules authorized by law to implement those policies."

Section 32. Section 87-1-622, MCA, is amended to read:

"87-1-622. Forest management plan -- sustainable yield study required -- definition. (1) The commission and the board shall adopt a forest management ~~plan~~ plans for lands under their jurisdiction, based on an annual sustainable yield, to implement the provisions of 87-1-201(9)(a)(iv).

(2) The department, under the direction of the commission, shall, before July 1, 2012, commission a study by a qualified independent third party to determine, using scientific principles, the annual sustainable yield on forested department lands. The department shall direct the qualified independent third party to determine the annual sustainable yield pursuant to all state and federal laws.

(3) The annual timber sale requirement for the timber sale program administered by the department to

address fire mitigation, pine beetle infestation, and wildlife habitat enhancement may not exceed the annual sustainable yield.

(4) The commission and the board shall review and redetermine the annual sustainable yield for lands under their jurisdiction at least once every 5 years.

(5) Expenditures necessary to meet the requirements of this section are authorized to be made by the department pursuant to 87-1-601.

(6) For the purposes of this section, the term "annual sustainable yield" means the quantity of timber that can be harvested from forested department lands each year, taking into account the ability of forested lands to generate replacement tree growth and in accordance with:

- (a) the provisions of 87-1-201(9)(a)(iv);
- (b) state and federal laws, including but not limited to the laws pertaining to wildlife, recreation, and maintenance of watersheds; and
- (c) water quality standards that protect fisheries and aquatic life and that are adopted under the provisions of Title 75, chapter 5."

Section 33. Section 87-4-432, MCA, is amended to read:

"87-4-432. Alternative livestock advisory council -- appointment of members -- duties. (1) There is an alternative livestock advisory council to advise the department on the administration of alternative livestock ranches in this state.

(2) The alternative livestock advisory council is composed of five members, appointed by the governor as follows:

- (a) one member of the board of livestock or the department of livestock;
- (b) one member of the fish, and wildlife, ~~and parks~~ commission or the department;
- (c) one member who is a representative of the alternative livestock industry;
- (d) one member who is a veterinarian licensed to practice veterinary medicine in this state; and
- (e) one member who is a representative of the sportspersons of Montana.

(3) Members of the alternative livestock advisory council shall serve staggered 2-year terms. A member may serve one additional consecutive 2-year term.

(4) The alternative livestock advisory council is attached to the department and the department of

livestock in an advisory capacity only, as defined in 2-15-102. The department and the department of livestock shall provide staff support and assistance necessary for the council to perform its functions."

Section 34. Name change -- directions to code commissioner. (1) Unless otherwise provided, wherever a reference to the fish, wildlife, and parks commission, meaning the commission established in 2-15-3402, appears in legislation enacted by the 2013 legislature that refers to functions of the commission related to fish and wildlife, the code commissioner is directed to change it to an appropriate reference to the fish and wildlife commission.

(2) Unless otherwise provided, wherever a reference to the fish, wildlife, and parks commission, meaning the commission established in 2-15-3402, appears in legislation enacted by the 2013 legislature that refers to functions of the commission related to state parks or recreational resources under Title 23, chapter 1, and Title 23, chapter 2, parts 1, 4, and 9, the code commissioner is directed to change it to an appropriate reference to the state parks and recreation board.

Section 35. Codification instruction. (1) [Section 1] is intended to be codified as an integral part of Title 2, chapter 15, part 34, and the provisions of Title 2, chapter 15, part 34, apply to [section 1].

(2) [Section 2] is intended to be codified as an integral part of Title 23, chapter 1, part 1, and the provisions of Title 23, chapter 1, part 1, apply to [section 2].

Section 36. Coordination instruction. If both House Bill No. 392 and [this act] are passed and approved, then [section 1] of House Bill No. 392, amending 22-3-432, is void and 22-3-432 must be amended as follows:

"22-3-432. Antiquities permits. (1) A person may not excavate, remove, or restore any heritage property or paleontological remains on lands owned by the state without first obtaining an antiquities permit from the historic preservation officer.

(2) Antiquities permits are to be granted only after careful consideration of the application for a permit and after consultation with the appropriate state agency. Permits are subject to strict compliance with the following guidelines:

(a) Antiquities permits may be granted only for work to be undertaken by reputable museums,

universities, colleges, or other historical, scientific, or educational institutions, societies, or persons with a view toward dissemination of knowledge about cultural properties, provided a permit may not be granted unless the historic preservation officer is satisfied that the applicant possesses the necessary qualifications to guarantee the proper excavation of those sites and objects that may add substantially to knowledge about Montana and its antiquities.

(b) The antiquities permit must specify that a summary report of the investigations, containing relevant maps, documents, drawings, and photographs, must be submitted to the historic preservation officer. The historic preservation officer shall determine the appropriate time period allowable between all work undertaken and submission of the summary report.

(3) ~~All~~ Except as provided in subsection (5), all heritage property and paleontological remains collected under an antiquities permit are the permanent property of the state and must be deposited in museums or other institutions within the state or loaned to qualified institutions outside the state, unless otherwise provided for in the antiquities permit.

(4) An antiquities permit is not a substitution for any other type of permit that a state agency may require for other purposes.

(5) Antiquities permits may be granted for the excavation and removal of paleontological remains at Makoshika state park for the purpose of selling the paleontological remains and using revenue from the sale to benefit Makoshika state park. Antiquities permits granted under this subsection must be used in accordance with rules adopted pursuant to [section 2(2) of House Bill No. 24]."

Section 37. Coordination instruction. If both House Bill No. 392 and [this act] are passed and approved, then [section 2] of House Bill No. 392, amending 23-1-102, is void and [section 2 of this act] must read as follows:

"NEW SECTION. **Section 2. Powers and duties of board -- rulemaking -- meetings.** (1) Except as provided in subsection (2), for state parks, primitive parks, state recreational areas, public camping grounds, state historic sites, state monuments, and other heritage and recreational resources, land, and water administered pursuant to Title 23, chapter 1, and Title 23, chapter 2, parts 1, 4, and 9, the board shall:

(a) set the policies and provide direction to the department for:

(i) the management, protection, conservation, and preservation of these properties, lands, and waters

and their appropriate role relative to tourism and the economic health of Montana;

(ii) coordinating, integrating, promoting, and furthering opportunities for education and recreation at these sites, including but not limited to camping, hiking, snowmobiling, off-highway vehicle use, horseback riding, mountain biking, boating, and swimming;

(b) work with the commission to maintain hunting and angling opportunities on these lands and waters;

(c) establish the rules of the department governing the use of these properties and lands. The rules must be adopted in the interest of public health, public safety, public welfare, and protection of property and public resources in regulating recreation, including picnicking, camping, and swimming, and sanitation. These rules are subject to review and approval by the department of public health and human services with regard to issues of public health and sanitation before becoming effective. Copies of the rules must show that endorsement.

(d) review and approve all acquisitions or transfers of interest in these properties, lands, and waters by the department, except as provided in 87-1-209(4);

(e) review and approve the budget of the department for the administration of these properties, lands, and waters prior to its transmittal to the office of budget and program planning;

(f) review and approve construction projects that have an estimated cost of more than \$5,000;

(g) work with local, state, and federal agencies to evaluate, integrate, coordinate, and promote recreational opportunities statewide; and

(h) encourage citizen involvement in management planning for these properties, lands, and waters.

(2) The board may adopt rules establishing conditions for the use of antiquities permits granted pursuant to 22-3-432(5).

(3) Pursuant to 87-1-301(1), the board does not oversee department activities related to the administration of fishing access sites.

(4) The members of the board shall hold quarterly or other meetings for the transaction of business at times and places considered necessary and proper. The meetings must be called by the presiding officer or by a majority of the board and must be held at the time and place specified in the call for the meeting. A majority of the members constitutes a quorum for the transaction of any business. The board shall keep a record of all the business it transacts. The presiding officer and secretary shall sign all orders, minutes, or documents for the board."

Section 38. Coordination instruction. If both Senate Bill No. 237 and [this act] are passed and approved and if both amend 23-1-102, then the sections amending 23-1-102 are void and 23-1-102 must be amended as follows:

"23-1-102. Powers and duties of department of fish, wildlife, and parks. (1) The department shall make a study to determine the scenic, historic, archaeological, scientific, and recreational resources of the state. ~~The Subject to 87-1-209, the department may:~~

(a) by purchase, lease, agreement, or acceptance of donations acquire for the state any areas, sites, or objects that in its opinion should be held, improved, and maintained as state parks, state recreational areas, state monuments, or state ~~historical~~ historic sites; ~~The department, with the consent of the commission, may~~

(b) with the consent of the board, acquire by condemnation, pursuant to Title 70, chapter 30, lands or structures for the purposes provided in 87-1-209(2); and

~~(2)(c) The department may~~ accept in the name of the state, in fee or otherwise, any areas, sites, or objects conveyed, entrusted, donated, or devised to the state.

~~(2) #~~ The department may accept gifts, grants, bequests, or contributions of money or other property to be spent or used for any of the purposes of this part.

(3) A contract, for any of the purposes of this part, may not be entered into or another obligation incurred until money has been appropriated by the legislature or is otherwise available. ~~If the contract or obligation pertains to acquisition of areas or sites in excess of either 100 acres or \$100,000 in value, the board of land commissioners shall specifically approve the acquisition.~~

(4) The department has jurisdiction, custody, and control of all state parks, recreational areas, public camping grounds, ~~historical~~ historic sites, and monuments, except wayside camps and other public conveniences acquired, improved, and maintained by the department of transportation and contiguous to the state highway system. The department may designate lands under its control as state parks, state ~~historical~~ historic sites, or state monuments; or by any other designation that it considers appropriate. The department may remove or change the designation of any area or portion of an area and may name or change the name of any area. The department may lease those portions of designated lands that are necessary for the proper administration of the lands in keeping with the basic purpose of this part."

Section 39. Coordination instruction. If Both Senate Bill No. 344 and [this act] are passed and

approved, then [section 9 of this act], amending 23-1-102, is void and 23-1-102 must be amended as follows:

"23-1-102. Powers and duties of department of fish, wildlife, and parks. (1) The department shall make a study to determine the scenic, historic, archaeological, scientific, and recreational resources of the state. ~~The~~ Subject to 87-1-209, the department may:

(a) by purchase, lease, agreement, or acceptance of donations acquire for the state any areas, sites, or objects that in its opinion should be held, improved, and maintained as state parks, state recreational areas, state monuments, or state ~~historical~~ historic sites; ~~The department, with the consent of the commission, may~~

(b) with the consent of the board, acquire by condemnation, pursuant to Title 70, chapter 30, lands or structures for the purposes provided in 87-1-209(2); and

~~(2)(c) The department may~~ accept in the name of the state, in fee or otherwise, any areas, sites, or objects conveyed, entrusted, donated, or devised to the state.

(2) ~~†~~ The department may accept gifts, grants, bequests, or contributions of money or other property to be spent or used for any of the purposes of this part.

(3) A contract, for any of the purposes of this part, may not be entered into or another obligation incurred until money has been appropriated by the legislature or is otherwise available. ~~If the contract or obligation pertains to acquisition of areas or sites in excess of either 100 acres or \$100,000 in value, the board of land commissioners shall specifically approve the acquisition.~~

(4) The department has jurisdiction, custody, and control of all state parks, recreational areas, public camping grounds, ~~historical~~ historic sites, and monuments, except wayside camps and other public conveniences acquired, improved, and maintained by the department of transportation and contiguous to the state highway system. The department may designate lands under its control as state parks, state ~~historical~~ historic sites, or state monuments; or by any other designation that it considers appropriate. The department may remove or change the designation of any area or portion of an area and may name or change the name of any area. The department may lease those portions of designated lands that are necessary for the proper administration of the lands in keeping with the basic purpose of this part."

Section 40. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

Section 41. Effective date. [This act] is effective July 1, 2013.

- END -

I hereby certify that the within bill,
HB 0024, originated in the House.

Chief Clerk of the House

Speaker of the House

Signed this _____ day
of _____, 2013.

President of the Senate

Signed this _____ day
of _____, 2013.

HOUSE BILL NO. 24
INTRODUCED BY D. ANKNEY
BY REQUEST OF THE ENVIRONMENTAL QUALITY COUNCIL

AN ACT CREATING THE STATE PARKS AND RECREATION BOARD; PROVIDING POWERS AND DUTIES; GRANTING RULEMAKING AUTHORITY; RENAMING THE FISH, WILDLIFE, AND PARKS COMMISSION; AMENDING SECTIONS 2-15-3110, 2-15-3113, 2-15-3401, 2-15-3402, 2-15-3404, 23-1-101, 23-1-102, 23-1-106, 23-1-108, 23-1-110, 23-1-121, 23-1-122, 23-2-301, 23-2-403, 23-2-404, 23-2-408, 23-2-410, 37-47-310, 75-1-220, 77-1-405, 85-2-102, 87-1-101, 87-1-106, 87-1-202, 87-1-209, 87-1-218, 87-1-301, 87-1-303, 87-1-401, 87-1-622, AND 87-4-432, MCA; AND PROVIDING AN EFFECTIVE DATE.

Exported Data

Date	Action	Committee	Votes (Yes)	Votes (No)	Media
04/22/13	Chapter Number Assigned				
04/22/13	(H) Signed by Governor				
04/12/13	(H) Transmitted to Governor				
04/12/13	(S) Signed by President				
04/11/13	(H) Signed by Speaker				
04/11/13	(C) Printed - Enrolled Version Available				
04/10/13	(H) Returned from Enrolling				
04/09/13	(H) Sent to Enrolling				
04/09/13	(H) 3rd Reading Passed as Amended by Senate		87	12	
04/09/13	(H) Scheduled for 3rd Reading				
04/08/13	(H) 2nd Reading Senate Amendments Concurred		92	8	
04/08/13	(H) Scheduled for 2nd Reading				
03/26/13	(S) Returned to House with Amendments				
03/25/13	(S) 3rd Reading Concurred		43	7	
03/25/13	(S) Scheduled for 3rd Reading				
03/23/13	(S) 2nd Reading Concurred		41	7	
03/23/13	(S) Scheduled for 2nd Reading				
03/19/13	(C) Printed - New Version Available				
03/19/13	(S) Committee Report--Bill Concurred as Amended	(S) Natural Resources			
03/15/13	(S) Committee Executive Action--Bill Concurred as Amended	(S) Natural Resources	13	0	
03/08/13	(S) Hearing	(S) Natural Resources			
02/26/13	(S) Referred to Committee	(S) Natural Resources			
02/26/13	(S) First Reading				
02/04/13	(H) Transmitted to Senate				
02/02/13	(H) 3rd Reading Passed		93	2	
02/02/13	(H) Scheduled for 3rd Reading				
02/01/13	(H) 2nd Reading Passed		98	2	
02/01/13	(H) Scheduled for 2nd Reading				
01/29/13	(C) Printed - New Version Available				
01/29/13	(H) Committee Report--Bill Passed as Amended	(H) Natural Resources			
01/29/13	(H) Committee Executive Action--Bill Passed as	(H) Natural	16	0	

Date	Action	Committee	Votes (Yes)	Votes (No)	Media
	Amended	Resources			
01/16/13	(H) Hearing	(H) Natural Resources			
01/10/13	(H) Fiscal Note Printed				
01/08/13	(H) Fiscal Note Signed				
01/07/13	(H) First Reading				
01/07/13	(H) Fiscal Note Received				
12/05/12	(H) Referred to Committee	(H) Natural Resources			
12/05/12	(H) Fiscal Note Requested				
11/19/12	(C) Introduced Bill Text Available Electronically				
11/19/12	(H) Introduced				
11/13/12	(C) Pre-Introduction Letter Sent				
10/18/12	(C) Fiscal Note Probable				
10/18/12	(C) Draft in Assembly/Executive Director Review				
10/18/12	(C) Draft in Final Drafter Review				
10/04/12	(C) Bill Draft Text Available Electronically				
10/04/12	(C) Draft in Input/Proofing				
09/19/12	(C) Draft to Drafter - Edit Review [JLN]				
09/17/12	(C) Draft in Legal Review				
09/17/12	(C) Draft to Requester for Review				
09/12/12	(C) Draft Request Received				



GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note 2015 Biennium

Bill #	HB0024	Title:	Create state parks and recreation board
Primary Sponsor:	Ankney, Duane	Status:	As Introduced

- | | | |
|---|--|--|
| ☐ Significant Local Gov Impact | ☐ Needs to be included in HB 2 | ☐ Technical Concerns |
| ☐ Included in the Executive Budget | ☐ Significant Long-Term Impacts | ☐ Dedicated Revenue Form Attached |

FISCAL SUMMARY

	<u>FY 2014 Difference</u>	<u>FY 2015 Difference</u>	<u>FY 2016 Difference</u>	<u>FY 2017 Difference</u>
Expenditures:				
General Fund	\$0	\$0	\$0	\$0
State Special Revenue	\$9,000	\$9,000	\$9,000	\$9,000
Revenue:				
General Fund	\$0	\$0	\$0	\$0
State Special Revenue	\$0	\$0	\$0	\$0
Net Impact-General Fund Balance:	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

Description of fiscal impact: HB 24 establishes a State Parks and Recreation Board. The expenditures related to establishing and funding the ongoing needs of the board could be absorbed within the Parks Division's operating budget.

FISCAL ANALYSIS

Assumptions:

1. The bill establishes a five member board that would meet for 1-2 days, quarterly.
2. Projected costs are: travel-related expenses and meals (\$6,960), compensation for each day the member engages in the performance of board duties (\$1,500), and supplies and materials needed for the meetings (\$540).
3. The agency could absorb these costs within their current budget.

	<u>FY 2014 Difference</u>	<u>FY 2015 Difference</u>	<u>FY 2016 Difference</u>	<u>FY 2017 Difference</u>
<u>Fiscal Impact:</u>				
FTE	0.00	0.00	0.00	0.00
<u>Expenditures:</u>				
Operating Expenses	\$9,000	\$9,000	\$9,000	\$9,000
TOTAL Expenditures	\$9,000	\$9,000	\$9,000	\$9,000
<u>Funding of Expenditures:</u>				
General Fund (01)	\$0	\$0	\$0	\$0
State Special Revenue (02)	\$9,000	\$9,000	\$9,000	\$9,000
TOTAL Funding of Exp.	\$9,000	\$9,000	\$9,000	\$9,000
<u>Revenues:</u>				
General Fund (01)	\$0	\$0	\$0	\$0
TOTAL Revenues	\$0	\$0	\$0	\$0
<u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u>				
General Fund (01)	\$0	\$0	\$0	\$0
State Special Revenue (02)	(\$9,000)	(\$9,000)	(\$9,000)	(\$9,000)

Sponsor's Initials_____
Date_____
Budget Director's Initials_____
Date

HOUSE BILL NO. 24

INTRODUCED BY D. ANKNEY

BY REQUEST OF THE ENVIRONMENTAL QUALITY COUNCIL

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING THE STATE PARKS AND RECREATION BOARD; PROVIDING POWERS AND DUTIES; GRANTING RULEMAKING AUTHORITY; RENAMING THE FISH, WILDLIFE, AND PARKS COMMISSION; AMENDING SECTIONS 2-15-3110, 2-15-3113, 2-15-3401, 2-15-3402, 2-15-3404, 23-1-101, 23-1-102, 23-1-106, 23-1-108, 23-1-110, 23-1-121, 23-1-122, 23-2-301, 23-2-403, 23-2-404, 23-2-408, 23-2-410, 23-2-501, 23-2-502, 23-2-506, 23-2-525, 23-2-529, 23-2-531, 23-2-601, 23-2-641, 23-2-652, 23-2-801, 23-2-806, 37-47-310, 75-1-220, 77-1-405, 85-2-102, 87-1-101, 87-1-106, 87-1-202, 87-1-209, 87-1-218, 87-1-301, 87-1-303, 87-1-306, 87-1-401, 87-1-622, AND 87-4-432, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. State parks and recreation board -- composition. (1) There is a state parks and recreation board.

(2) The board consists of five members appointed by the governor, as prescribed in 2-15-124. The governor shall appoint one member from each of the following districts:

(a) District No. 1, consisting of Lincoln, Flathead, Sanders, Lake, Mineral, Missoula, Powell, Ravalli, Granite, and Lewis and Clark Counties;

(b) District No. 2, consisting of Deer Lodge, Silver Bow, Beaverhead, Madison, Jefferson, Broadwater, Gallatin, Park, and Sweet Grass Counties;

(c) District No. 3, consisting of Glacier, Toole, Liberty, Hill, Pondera, Teton, Chouteau, Cascade, Judith Basin, Fergus, Blaine, Meagher, and Wheatland Counties;

(d) District No. 4, consisting of Phillips, Valley, Daniels, Sheridan, Roosevelt, Petroleum, Garfield, McCone, Richland, Dawson, and Wibaux Counties;

(e) District No. 5, consisting of Golden Valley, Musselshell, Stillwater, Carbon, Yellowstone, Big Horn, Treasure, Rosebud, Custer, Powder River, Carter, Fallon, and Prairie Counties.

(3) Appointments must be made without regard to political affiliation and must be made solely for the

wise management of state parks and outdoor recreational resources administered pursuant to Title 23, chapter 1, and Title 23, chapter 2, parts 1, 4, 5, 6, 8, and 9.

(4) A person appointed to the board must be informed or experienced in the conservation and protection of state parks, heritage resources, natural resources, tourism promotion and development, or outdoor recreation.

(5) A vacancy on the board must be filled by the governor in the same manner and from the district in which the vacancy occurs.

(6) The board is designated as a quasi-judicial board for purposes of 2-15-124, except that the requirement that at least one member be an attorney does not apply.

(7) The administrator of the division that oversees state parks is the secretary of the board.

NEW SECTION. Section 2. Powers and duties of board -- rulemaking -- meetings. (1) Except as provided in subsection (2), for state parks, primitive parks, state recreational areas, public camping grounds, state historic sites, state monuments, and other heritage and recreational resources, land, and water administered pursuant to Title 23, chapter 1, and Title 23, chapter 2, parts 1, 4, 5, 6, 8, and 9, the board shall:

(a) set the policies and provide direction to the department for:

(i) the management, protection, conservation, and preservation of these properties, lands, and waters in a way that promotes their importance to tourism and the economic health of Montana;

(ii) coordinating, integrating, promoting, and furthering opportunities for education and recreation at these sites, including but not limited to camping, hiking, snowmobiling, off-highway vehicle use, horseback riding, mountain biking, and boating;

(b) work with the commission to maintain hunting and angling opportunities on these lands and waters;

(c) establish the rules of the department governing the use of these properties, lands, and waters. The rules must be adopted in the interest of public health, public safety, and protection of property and public resources in regulating picnicking, camping, sanitation, swimming, and boating, including but not limited to boating speed regulations, the operation of motor-driven boats, the operation of personal watercraft, the resolution of conflicts between users of motorized and nonmotorized boats, waterskiing, and surfboarding. These rules are subject to review and approval by the department of public health and human services with regard to issues of public health and sanitation before becoming effective. Copies of the rules must show that endorsement.

(d) review and approve all acquisitions or transfers of interest in these properties, lands, and waters by the department;

(e) review and approve the budget of the department for the administration of these properties, lands, and waters prior to its transmittal to the office of budget and program planning;

(f) review and approve construction projects that have an estimated cost of more than \$1,000 but less than \$5,000;

(g) work with local, state, and federal agencies to evaluate, integrate, coordinate, and promote recreational opportunities statewide; and

(h) encourage citizen involvement in management planning for these properties, lands, and waters.

(2) Pursuant to 87-1-301(1), the board does not oversee department activities related to the administration of fishing access sites.

(3) The members of the board shall hold quarterly or other meetings for the transaction of business at times and places considered necessary and proper. The meetings must be called by the presiding officer or by a majority of the board and must be held at the time and place specified in the call for the meeting. A majority of the members constitutes a quorum for the transaction of any business. The board shall keep a record of all the business it transacts. The presiding officer and secretary shall sign all orders, minutes, or documents for the board.

Section 3. Section 2-15-3110, MCA, is amended to read:

"2-15-3110. Livestock loss board -- purpose, membership, and qualifications. (1) There is a livestock loss board. The purpose of the board is to administer the programs called for in the Montana gray wolf management plan and established in 2-15-3111 through 2-15-3113, with funds provided through the accounts established in 81-1-110, in order to minimize losses caused by wolves to livestock producers and to reimburse livestock producers for livestock losses from wolf predation.

(2) The board consists of seven members, appointed by the governor, as follows:

(a) three members from a list of names recommended by the board of livestock;

(b) three members from a list of names recommended by the fish, and wildlife, ~~and parks~~ commission; and

(c) one member of the general public.

(3) Each board member must have knowledge of or have experience in at least one of the following:

(a) the raising of livestock in Montana;

(b) livestock marketing, valuations, sales, or breeding associations;

1 (c) the interaction of wolves with livestock and livestock mortality caused by wolves;

2 (d) wildlife conservation;

3 (e) administration; and

4 (f) fundraising.

5 (4) The board is designated as a quasi-judicial board for the purposes of 2-15-124. Notwithstanding the
6 provisions of 2-15-124(1), the governor is not required to appoint an attorney to serve as a member of the board.

7 (5) The board is allocated to the department of livestock for administrative purposes only as provided
8 in 2-15-121.

9 (6) The board shall adopt rules to implement the provisions of 2-15-3110 through 2-15-3114 and
10 81-1-110 through 81-1-112."

11
12 **Section 4.** Section 2-15-3113, MCA, is amended to read:

13 **"2-15-3113. Additional powers and duties of livestock loss board.** (1) The livestock loss board shall:

14 (a) process claims;

15 (b) seek information necessary to ensure that claim documentation is complete;

16 (c) provide payments authorized by the board for confirmed and probable livestock losses, along with
17 a written explanation of payment;

18 (d) submit monthly and annual reports to the board of livestock summarizing claims and expenditures
19 and the results of action taken on claims and maintain files of all claims received, including supporting
20 documentation;

21 (e) provide information to the board of livestock regarding appealed claims and implement any decision
22 by the board;

23 (f) prepare the annual budget for the board; and

24 (g) provide proper documentation of staff time and expenditures.

25 (2) The livestock loss board may enter into an agreement with any Montana tribe, if the tribe has adopted
26 a wolf management plan for reservation lands that is consistent with the state wolf management plan, to provide
27 that tribal lands within reservation boundaries are eligible for mitigation grants pursuant to 2-15-3111 and that
28 livestock losses on tribal lands within reservation boundaries are eligible for reimbursement payments pursuant
29 to 2-15-3112.

30 (3) The livestock loss board shall:

(a) coordinate and share information with state, federal, and tribal officials, livestock producers, nongovernmental organizations, and the general public in an effort to reduce livestock losses caused by wolves;

(b) establish an annual budget for the prevention, mitigation, and reimbursement of livestock losses caused by wolves;

(c) perform or contract for the performance of periodic program audits and reviews of program expenditures, including payments to individuals, incorporated entities, and producers who receive loss reduction grants and reimbursement payments;

(d) adjudicate appeals of claims;

(e) investigate alternative or enhanced funding sources, including possible agreements with public entities and private wildlife or livestock organizations that have active livestock loss reimbursement programs in place;

(f) meet as necessary to conduct business; and

(g) report annually to the governor, the legislature, members of the Montana congressional delegation, the board of livestock, the fish, and wildlife, ~~and parks~~ commission, and the public regarding results of the programs established in 2-15-3111 through 2-15-3113.

(4) The livestock loss board may sell or auction any wolf carcasses or parts of wolf carcasses received pursuant to 87-1-217. The proceeds, minus the costs of the sale including the preparation of the carcass or part of the carcass for sale, must be deposited into the livestock loss reduction and mitigation special revenue account established in 81-1-110(2)(a) and used for the purposes of 2-15-3111 through 2-15-3114."

Section 5. Section 2-15-3401, MCA, is amended to read:

"2-15-3401. Department of fish, wildlife, and parks -- head. There is a department of fish, wildlife, and parks. The department head is the director of fish, wildlife, and parks appointed by the governor in accordance with 2-15-111. The director is the secretary of the fish and wildlife commission established in 2-15-3402."

Section 6. Section 2-15-3402, MCA, is amended to read:

"2-15-3402. Fish, and wildlife, ~~and parks~~ commission. (1) There is a fish, and wildlife, ~~and parks~~ commission.

(2) The commission consists of five members. At least one member must be experienced in the breeding and management of domestic livestock. The governor shall appoint one member from each of the following

1 districts:

2 (a) District No. 1, consisting of Lincoln, Flathead, Sanders, Lake, Mineral, Missoula, Powell, Ravalli,
3 Granite, and Lewis and Clark Counties;

4 (b) District No. 2, consisting of Deer Lodge, Silver Bow, Beaverhead, Madison, Jefferson, Broadwater,
5 Gallatin, Park, and Sweet Grass Counties;

6 (c) District No. 3, consisting of Glacier, Toole, Liberty, Hill, Pondera, Teton, Chouteau, Cascade, Judith
7 Basin, Fergus, Blaine, Meagher, and Wheatland Counties;

8 (d) District No. 4, consisting of Phillips, Valley, Daniels, Sheridan, Roosevelt, Petroleum, Garfield,
9 McCone, Richland, Dawson, and Wibaux Counties;

10 (e) District No. 5, consisting of Golden Valley, Musselshell, Stillwater, Carbon, Yellowstone, Big Horn,
11 Treasure, Rosebud, Custer, Powder River, Carter, Fallon, and Prairie Counties.

12 (3) Appointments must be made without regard to political affiliation and must be made solely for the
13 wise management of fish, wildlife, ~~and state parks~~ and ~~other outdoor~~ related recreational resources of this state.
14 A person may not be appointed to the commission unless the person is informed or interested and experienced
15 in the subject of fish, wildlife, ~~parks~~, and ~~outdoor~~ recreation and the requirements for the conservation and
16 protection of fish, wildlife, ~~parks~~, and ~~outdoor~~ recreational resources.

17 (4) A vacancy occurring on the commission must be filled by the governor in the same manner and from
18 the district in which the vacancy occurs.

19 (5) The fish, and wildlife, ~~and parks~~ commission is designated as a quasi-judicial board for purposes of
20 2-15-124. Notwithstanding the provisions of 2-15-124(1), the governor is not required to appoint an attorney to
21 serve as a member of the commission."
22

23 **Section 7.** Section 2-15-3404, MCA, is amended to read:

24 **"2-15-3404. Fish, wildlife, and parks crimestoppers board.** (1) There is a fish, wildlife, and parks
25 crimestoppers board.

26 (2) (a) The board consists of five members, four of whom are appointed by the director of the department
27 of fish, wildlife, and parks; as follows:

28 (i) a person within the department responsible for the enforcement of fish and wildlife laws;

29 (ii) a member of a hunter's, angler's, or conservation group;

30 (iii) a member who is actively engaged in agricultural production; and

(iv) a member of the public with an interest in parks and recreation.

(b) The fifth member is a member of the fish, and wildlife, ~~and parks~~ commission who must be designated by the commission.

(3) The board shall elect a presiding officer from its members.

(4) A member must be appointed for a term of 2 years and may be reappointed.

(5) (a) A vacancy must be filled within 14 days of occurrence in the same manner as the original appointment.

(b) A vacancy does not impair the right of the remaining members to exercise the powers of the board.

(6) The board is allocated to the department of fish, wildlife, and parks for administrative purposes only as provided in 2-15-121."

Section 8. Section 23-1-101, MCA, is amended to read:

"23-1-101. Purpose Purposes -- definitions. (1) For the ~~purpose~~ purposes of conserving the scenic, historic, archaeological, scientific, and recreational resources of the state, ~~and~~ providing for their use and enjoyment, ~~thereby~~ and contributing to the cultural, recreational, and economic life of the people and their health, the department of fish, wildlife, and parks (hereinafter referred to as department) ~~is~~ and board are hereby vested with the duties and powers hereinafter set forth in this part.

(2) For the purposes of this part, the following definitions apply:

(a) "Board" means the state parks and recreation board established in [section 1].

(b) "Commission" means the fish and wildlife commission established in 2-15-3402.

(c) "Department" means the department of fish, wildlife, and parks established in 2-15-3401.

(d) "Director" means the director of fish, wildlife, and parks as provided in 2-15-3401."

Section 9. Section 23-1-102, MCA, is amended to read:

"23-1-102. Powers and duties of department of fish, wildlife, and parks. (1) The department shall make a study to determine the scenic, historic, archaeological, scientific, and recreational resources of the state. ~~The~~ With the consent of the board, the department may:

(a) by purchase, lease, agreement, or acceptance of donations acquire for the state any areas, sites, or objects that in its opinion should be held, improved, and maintained as state parks, state recreational areas, state monuments, or state ~~historical~~ historic sites. ~~The department, with the consent of the commission, may~~

(b) acquire by condemnation, pursuant to Title 70, chapter 30, lands or structures for the purposes provided in 87-1-209(2);

~~(2)(c) The department may accept in the name of the state, in fee or otherwise, any areas, sites, or objects conveyed, entrusted, donated, or devised to the state; and~~

(d) lease those portions of designated lands that are necessary for the proper administration of the lands in keeping with the basic purposes of this part.

~~(2) ‡ The department may accept gifts, grants, bequests, or contributions of money or other property to be spent or used for any of the purposes of this part.~~

(3) A contract, for any of the purposes of this part, may not be entered into or another obligation incurred until money has been appropriated by the legislature or is otherwise available. If the contract or obligation pertains to acquisition of areas or sites in excess of either 100 acres or \$100,000 in value, the board of land commissioners shall specifically approve the acquisition.

(4) The department has jurisdiction, custody, and control of all state parks, recreational areas, public camping grounds, ~~historical~~ historic sites, and monuments, except wayside camps and other public conveniences acquired, improved, and maintained by the department of transportation and contiguous to the state highway system. The department may designate lands under its control as state parks, state ~~historical~~ historic sites, or state monuments; or by any other designation that it considers appropriate. The department may remove or change the designation of any area or portion of an area and may name or change the name of any area. ~~The department may lease those portions of designated lands that are necessary for the proper administration of the lands in keeping with the basic purpose of this part."~~

Section 10. Section 23-1-106, MCA, is amended to read:

"23-1-106. Rules -- penalties -- enforcement. (1) The department and the board may make rules governing the use, occupancy, and protection of the property under ~~its~~ their control.

(2) ~~Any~~ A person who violates ~~any of the rules made by the department this section or a rule established pursuant to subsection (1) this section~~ is guilty of a misdemeanor and shall be fined not more than \$500 or be imprisoned in the county jail for not more than 6 months.

(3) ~~It is unlawful and a misdemeanor punishable as provided in subsection (2) to~~ A person may not refuse to exhibit for inspection any park permit, proof of age, or proof of residency upon request by a fish and game warden, park ranger, or peace officer.

(4) The department shall enforce the provisions of this chapter and rules implementing this chapter. The director of the department shall employ all necessary and qualified personnel for enforcement purposes.

(5) The department is a criminal justice agency for the purpose of obtaining the technical assistance and support services provided by the board of crime control under the provisions of 44-4-301. Authorized officers of the department are granted peace officer status with the power:

(a) of search, seizure, and arrest;

(b) to investigate activities in this state regulated by this chapter and rules of the department and the fish, wildlife, and parks commission board; and

(c) to report violations to the county attorney of the county in which they occur."

Section 11. Section 23-1-108, MCA, is amended to read:

"23-1-108. Acquisition of certain state parks, monuments, or ~~historical~~ historic sites. (1) Any person, association, or representative of a governing unit may submit a proposal for the acquisition of a site or area described in 23-1-102 from the income of the trust fund created in 15-35-108 to the department of fish, wildlife, and parks by July 1 of the year preceding the convening of a legislative session.

(2) The fish, wildlife, and parks commission board shall present to the legislature by the 15th day of any legislative session a list of areas, sites, or objects that were proposed for purchase for use as state parks, state recreational areas, state monuments, or state ~~historical~~ historic sites with the money contained in the parks account.

(3) The legislature must appropriate funds from this account before any park, area, monument, or site may be purchased."

Section 12. Section 23-1-110, MCA, is amended to read:

"23-1-110. Improvement or development of state park or fishing access site -- required public involvement -- rules. (1) ~~The fish, wildlife, and parks commission shall adopt rules establishing a policy whereby any~~ Any proposed improvement or development of a state park or fishing access site that significantly changes park or fishing access site features or use patterns is subject to notice of proposed modifications, both statewide and locally, and to opportunity for a public meeting and public comment on the advisability and acceptability of the proposal. Rules to govern the notice, meeting, and comment process must be adopted:

(a) for state parks by the board; and

1 (b) for fishing access sites by the commission.

2 (2) The department shall prepare a public report regarding any project that is subject to the provisions
3 of subsection (1). The report must include conclusions relating to the following aspects of the proposal:

4 (a) the desires of the public as expressed to the department;

5 (b) the capacity of the park or fishing access site for development;

6 (c) environmental impacts associated with the improvement or development;

7 (d) the long-range maintenance of the improvements;

8 (e) the protection of natural, cultural, and historical park or fishing access site features;

9 (f) potential impacts on tourism; and

10 (g) site-specific modifications as they relate to the park or fishing access site system as a whole."

11
12 **Section 13.** Section 23-1-121, MCA, is amended to read:

13 **"23-1-121. Park rangers -- qualifications -- powers and duties.** (1) The department is authorized to
14 establish a corps of park rangers and to select and appoint park rangers who must be qualified by their
15 experience, training, skill, and interest in the protection, conservation, and stewardship of the natural and cultural
16 resources and parks administered by the department.

17 (2) Park rangers shall:

18 (a) enforce the laws of this state and the rules of the department and the ~~fish, wildlife, and parks~~
19 ~~commission board~~ that provide for the protection, conservation, and stewardship of the natural and cultural
20 resources in the state parks system-;

21 ~~(3) Park rangers shall~~

22 (b) protect campers, picnickers, and other park users;

23 (c) keep the peace;

24 (d) supervise public use; ~~and~~

25 (e) maintain public order in all units of the state parks system-; and

26 ~~(4)(f) Park rangers shall~~ perform all other duties prescribed by the department."

27
28 **Section 14.** Section 23-1-122, MCA, is amended to read:

29 **"23-1-122. Enforcement powers of park rangers and game wardens.** (1) Park rangers appointed
30 pursuant to 23-1-121 and fish and game wardens appointed pursuant to 87-1-501 are authorized officers with

the authority to enforce the laws and adopted rules relating to parks and outdoor recreation contained in chapters 1 and 2 of this title, except chapter 2, part 7.

(2) An authorized officer may:

(a) arrest, in accordance with Title 46, chapter 6, any person within an area managed by the department upon probable cause to believe that the person has committed an offense against chapters 1 and 2 of this title, except chapter 2, part 7, or rules of the department, the board, or the ~~fish, wildlife, and parks~~ commission;

(b) enforce the disorderly conduct and public nuisance laws under 45-8-101 and 45-8-111 as they apply to the operation of motorboats on waters within areas managed by the department under this part; and

(c) exercise other powers of peace officers in the enforcement of:

(i) laws relating to parks and outdoor recreation contained in chapters 1 and 2 of this title, except chapter 2, part 7;

(ii) rules of the department, the board, and the ~~fish, wildlife, and parks~~ commission; and

(iii) judgments obtained for violations of the laws and rules specified in this subsection (2)(c)."

Section 15. Section 23-2-301, MCA, is amended to read:

"23-2-301. Definitions. For purposes of this part, the following definitions apply:

(1) "Barrier" means an artificial obstruction located in or over a water body, restricting passage on or through the water, that totally or effectively obstructs the recreational use of the surface water at the time of use. A barrier may include but is not limited to a bridge or fence or any other artificial obstacle to the natural flow of water.

(2) "Class I waters" means surface waters, other than lakes, that:

(a) lie within the officially recorded federal government survey meander lines of the waters;

(b) flow over lands that have been judicially determined to be owned by the state by reason of application of the federal navigability test for state streambed ownership;

(c) are or have been capable of supporting the following commercial activities: log floating, transportation of furs and skins, shipping, commercial guiding using multiperson watercraft, public transportation, or the transportation of merchandise, as these activities have been defined by published judicial opinion as of April 19, 1985; or

(d) are or have been capable of supporting commercial activity within the meaning of the federal navigability test for state streambed ownership.

(3) "Class II waters" means all surface waters that are not class I waters, except lakes.

(4) "Commission" means the fish, and wildlife, ~~and parks~~ commission provided for in 2-15-3402.

(5) "Department" means the department of fish, wildlife, and parks provided for in 2-15-3401.

(6) "Diverted away from a natural water body" means a diversion of surface water through a constructed water conveyance system, including but not limited to:

(a) an irrigation or drainage canal or ditch;

(b) an industrial, municipal, or domestic water system, excluding the lake, stream, or reservoir from which the system obtains water;

(c) a flood control channel; or

(d) a hydropower inlet and discharge facility.

(7) "Lake" means a body of water where the surface water is retained by either natural or artificial means and the natural flow of water is substantially impeded.

(8) "Occupied dwelling" means a building used for a human dwelling at least once a year.

(9) "Ordinary high-water mark" means the line that water impresses on land by covering it for sufficient periods to cause physical characteristics that distinguish the area below the line from the area above it. Characteristics of the area below the line include, when appropriate, but are not limited to deprivation of the soil of substantially all terrestrial vegetation and destruction of its agricultural vegetative value. A flood plain adjacent to surface waters is not considered to lie within the surface waters' high-water marks.

(10) "Recreational use" means with respect to surface waters: fishing, hunting, swimming, floating in small craft or other flotation devices, boating in motorized craft unless otherwise prohibited or regulated by law, or craft propelled by oar or paddle, other water-related pleasure activities, and related unavoidable or incidental uses.

(11) "Supervisors" means the board of supervisors of a soil conservation district, the directors of a grazing district, or the board of county commissioners if a request pursuant to 23-2-311(3)(b) is not within the boundaries of a conservation district or if the request is refused by the board of supervisors of a soil conservation district or the directors of a grazing district.

(12) "Surface water" means, for the purpose of determining the public's access for recreational use, a natural water body, its bed, and its banks up to the ordinary high-water mark."

Section 16. Section 23-2-403, MCA, is amended to read:

"23-2-403. Definitions. As used in this part, the following definitions apply:

1 (1) "Board" means the state parks and recreation board established in [section 1].

2 ~~(1)(2)~~ "Commission" means the fish, and wildlife, ~~and parks commission provided for~~ established in
3 2-15-3402.

4 ~~(2)(3)~~ "Department" means the department of fish, wildlife, and parks provided for in 2-15-3401."

5
6 **Section 17.** Section 23-2-404, MCA, is amended to read:

7 **"23-2-404. Applicability.** This part applies to that portion of the Smith River waterway located in
8 Meagher and Cascade Counties lying between the Camp Baker ~~state fishing access site~~ in Meagher County and
9 the confluence of the Smith River with the Missouri River. This description does not prevent the department from
10 naming or renaming areas pursuant to 23-1-102."

11
12 **Section 18.** Section 23-2-408, MCA, is amended to read:

13 **"23-2-408. Rulemaking authority.** The ~~commission board~~ board has authority to provide for the administration
14 of the Smith River waterway. The ~~commission board~~ board may adopt rules to:

15 (1) regulate and allocate recreational and commercial floating and camping to preserve the biological
16 and social benefits of recreational and commercial use of the Smith River waterway in its natural state.
17 Recreational use may be restricted to preserve the experience of floating, fishing, and camping in a natural
18 environment and to protect the river's fish, wildlife, water, and canyon resources. The restrictions must:

19 (a) consider the tolerance of adjacent landowners to recreational use;

20 (b) consider the capability of the river and adjoining lands to accommodate floating and camping use;

21 and

22 (c) ensure an acceptable level of user satisfaction, including minimizing user conflicts and providing for
23 a level of solitude.

24 (2) restrict recreational use, if necessary, through the implementation of a permit system. An allocation
25 of a portion of the permits may be made to licensed outfitters to preserve the availability of outfitting services to
26 the public.

27 (3) regulate the activities of recreational and commercial users of the water and land in the Smith River
28 waterway that are legally accessible to the public and regulate the land in the river corridor that is under the
29 control of the department and ~~commission~~ the board:

30 (a) for the purposes of safety, health, and protection of property;

(b) to preserve the experience of floating, fishing, and camping in a natural environment;
(c) to protect the river's fish, wildlife, water, and canyon resources; and
(d) to minimize conflicts between recreationists and private landowners; and
(4) establish recreational and commercial user fees for floating and camping on the Smith River waterway."

Section 19. Section 23-2-410, MCA, is amended to read:

"23-2-410. Penalty -- enforcement. (1) A person who violates a rule of the ~~commission~~ board adopted pursuant to this part is guilty of a misdemeanor punishable by a fine of not less than \$50 or more than \$500; or by imprisonment in a county jail for not more than 6 months, ~~or by both fine and imprisonment.~~

(2) The department is a criminal justice agency for the purpose of obtaining the technical assistance and support services provided by the board of crime control under the provisions of 44-4-301. Authorized officers of the department are granted peace officer status with the power:

(a) of search, seizure, and arrest;
(b) to investigate activities in this state regulated by this part and rules of the department, the board, and the commission; and
(c) to report violations to the county attorney of the county in which they occur."

Section 20. Section 23-2-501, MCA, is amended to read:

"23-2-501. Declaration of policy. It is the policy of this state to promote safety for persons and property in and connected with the use, operation, and equipment of vessels and to promote uniformity of laws relating thereto. For the purposes of this part:

(1) the board has jurisdiction over all waters immediately adjacent to lands administered pursuant to Title 23, chapter 1, and all waters administered pursuant to Title 23, chapter 2, part 4; and

(2) the commission has jurisdiction over all waters that are not immediately adjacent to lands administered pursuant to Title 23, chapter 1, and all waters not administered pursuant to Title 23, chapter 2, part 4."

Section 21. Section 23-2-502, MCA, is amended to read:

"23-2-502. Definitions. As used in this part, unless the context clearly requires a different meaning, the

1 following definitions apply:

2 (1) "Board" means the state parks and recreation board established in [section 1].

3 ~~(1)~~(2) "Certificate of number" means the certificate issued by the department of justice, an authorized
4 agent, as defined in 61-1-101, or a county treasurer to the owner of a motorboat or sailboat, assigning the
5 motorboat or sailboat an identifying number and containing other information as required by the department of
6 justice.

7 (3) "Commission" means the fish and wildlife commission established in 2-15-3402.

8 ~~(2)~~(4) "Department" means the department of fish, wildlife, and parks of the state of Montana established
9 in 2-15-3401.

10 ~~(3)~~(5) "Documented vessel" means a vessel that has and is required to have a valid marine document
11 as a vessel of the United States.

12 ~~(4)~~(6) "Identifying number" means the boat number set forth in the certificate of number and properly
13 displayed on the motorboat or sailboat.

14 ~~(5)~~(7) "Lienholder" means a person holding a security interest.

15 ~~(6)~~(8) "Manufacturer" means a person engaged in the business of manufacturing or importing new and
16 unused vessels or new and unused outboard motors for the purpose of sale or trade.

17 ~~(7)~~(9) (a) "Motorboat" means a vessel, including a personal watercraft or pontoon, propelled by any
18 machinery, motor, or engine of any description, whether or not the machinery, motor, or engine is the principal
19 source of propulsion. The term includes boats temporarily equipped with detachable motors or engines.

20 (b) The term does not include a vessel that has a valid marine document issued by the U.S. coast guard
21 or any successor federal agency.

22 ~~(8)~~(10) "Operate" means to navigate or otherwise use a motorboat or a vessel.

23 ~~(9)~~(11) "Operator" means the person who navigates, drives, or is otherwise in immediate control of a
24 motorboat or vessel.

25 ~~(10)~~(12) (a) "Owner" means a person, other than a lienholder, having the property in or title to a
26 motorboat or vessel. The term includes a person entitled to the use or possession of a motorboat or vessel
27 subject to an interest in another person, reserved or created by an agreement securing payment or performance
28 of an obligation.

29 (b) The term does not include a lessee under a lease not intended as security.

30 ~~(11)~~(13) "Passenger" means each person carried on board a vessel other than:

1 (a) the owner or the owner's representative;

2 (b) the operator;

3 (c) bona fide members of the crew engaged in the business of the vessel who have not contributed any
4 consideration for their carriage and who are paid for their services; or

5 (d) a guest on board a vessel that is being used exclusively for pleasure purposes who has not
6 contributed any consideration, directly or indirectly, for the guest's carriage.

7 ~~(12)~~(14) "Person" means an individual, partnership, firm, corporation, association, or other entity.

8 ~~(13)~~(15) "Personal watercraft" means a vessel that uses an outboard motor or an inboard engine
9 powering a water jet pump as its primary source of propulsion and that is designed to be operated by a person
10 sitting, standing, or kneeling on the vessel rather than by the conventional method of sitting or standing in the
11 vessel.

12 ~~(14)~~(16) "Registration decal" means an adhesive sticker produced by the department of justice and
13 issued by the department of justice, an authorized agent as defined in 61-1-101, or a county treasurer to the
14 owner of a motorboat, sailboat, or personal watercraft as proof of payment of fees imposed on the motorboat,
15 sailboat, or personal watercraft for the registration period indicated on the decal as recorded by the department
16 of justice under 61-3-101.

17 ~~(15)~~(17) (a) "Sailboat" means a vessel that uses a sail and wind as its primary source of propulsion.

18 (b) The term does not include a canoe or kayak propelled by wind.

19 ~~(16)~~(18) "Security interest" means an interest that is reserved or created by an agreement that secures
20 payment or performance of an obligation and is valid against third parties generally.

21 ~~(17)~~(19) "Uniform state waterway marking system" means one of two categories:

22 (a) a system of aids to navigation to supplement the federal system of marking in state waters;

23 (b) a system of regulatory markers to warn a vessel operator of dangers or to provide general information
24 and directions.

25 ~~(18)~~(20) "Validation decal" means an adhesive sticker produced by the department and issued by the
26 department or a county treasurer to the owner of a motorboat, sailboat, or personal watercraft verifying the
27 identifying number assigned to the motorboat, sailboat, or personal watercraft and the name and address of the
28 owner to meet requirements of the federal standard numbering system.

29 ~~(19)~~(21) "Vessel" means every description of watercraft, unless otherwise defined by the department,
30 other than a seaplane on the water, used or capable of being used as a means of transportation on water.

(20)(22) "Waters of this state" means any waters within the territorial limits of this state."

Section 22. Section 23-2-506, MCA, is amended to read:

"23-2-506. Enforcement. (1) The department is a criminal justice agency for the purpose of obtaining the technical assistance and support services provided by the board of crime control under the provisions of 44-4-301. Authorized officers of the department are granted peace officer status with the power:

(a) of search, seizure, and arrest;

(b) to investigate activities in this state regulated by this part and rules of the department, the board, and the fish, wildlife, and parks commission; and

(c) to report violations to the county attorney of the county in which they occur.

(2) All sheriffs and peace officers of the state of Montana and all United States coast guard law enforcement officers ~~shall~~ have authority to enforce provisions of this part, ~~as amended~~."

Section 23. Section 23-2-525, MCA, is amended to read:

"23-2-525. Restricted areas. (1) A person may not anchor a vessel or other obstacle for fishing or pleasure purposes on any body of water over which the state has jurisdiction in a position that obstructs a passageway ordinarily used by other vessels.

(2) A person may not operate a pleasure vessel within 20 feet of the exterior boundary of a water area that is clearly marked by buoys or some other distinguishing device as a bathing or swimming area. Swimming areas must be marked with white buoys having international orange markings in conformance with the uniform state waterway marking system by the owners of the areas.

(3) A person may not operate a vessel within 75 feet of a person engaged in fishing or hunting waterfowl, unless unavoidable. If unavoidable, the vessel must be operated at not greater than no-wake speed or at a minimum speed necessary to maintain upstream progress while within 75 feet of the person engaged in fishing or hunting waterfowl.

(4) (a) A person may not purposely, knowingly, or negligently operate a motorboat upon the waters of this state within 200 feet of a tow-float or buoy displaying a "diver-down" symbol, red with a white slash, on a flag.

(b) The motorboat may enter the 200-foot safety zone by use of sail or oar. In an emergency or if there is insufficient water on either side of the 200-foot safety zone to pass by and stay out of the zone, the operator may use power within the zone but may not exceed no-wake speed. The burden of proving that an emergency

exists or that there is insufficient water is on the operator.

(c) The ~~fish, wildlife, and parks~~ commission or the board may by rule determine areas where establishment of a 200-foot safety zone is not allowed in order to provide for diver safety or the regulation of water traffic."

Section 24. Section 23-2-529, MCA, is amended to read:

"23-2-529. Waterskis and surfboards. (1) A person may not operate a motorboat or vessel on any waters of this state for the purpose of towing a person or persons on waterskis, a surfboard, or similar device unless the operator is accompanied by an observer. If the operator is 12 years of age or younger, there must be a second person, at least 18 years of age, in the vessel to observe the person being towed. The ~~fish, wildlife, and parks~~ commission and the board shall adopt rules regarding the proper observation and safe towing of persons on waterskis or similar devices, based on density of use of a body of water.

(2) A person may not operate a motorboat or vessel towing a person engaged in waterskiing, surfboarding, or similar activity or towing some other contrivances nor may a person engage in those activities at any time between the hours from sunset to sunrise, except that this subsection does not apply to a performer engaged in a professional exhibition or a person engaged in a regatta or race authorized under this part.

(3) All right-of-way rules applying to a towing vessel apply to a person being towed."

Section 25. Section 23-2-531, MCA, is amended to read:

"23-2-531. Personal watercraft operation. In addition to applicable provisions in this part, a person may not operate a personal watercraft:

(1) unless a person operating or riding on the vessel is wearing a United States coast guard approved type I, II, III, or V personal flotation device;

(2) if the vessel is equipped by the manufacturer with a lanyard type engine cutoff switch unless the lanyard is attached to the operator's person, clothing, or personal flotation device as is appropriate for the specific vessel;

(3) (a) except as provided for standup personal watercraft in subsection (3)(b) or when towing a waterskier from or to a dock or shore, at greater than no-wake speed within 200 feet of a dock, swimmer, swimming raft, nonmotorized boat, or anchored vessel on a lake or river;

(b) at greater than the minimum speed necessary to operate a personal watercraft when leaving or

1 returning directly from or to a dock or shore for the purpose of launching or docking; or

2 (4) on any surface waters restricted in whole or in part by rule of the ~~fish, wildlife, and parks~~ commission
3 or the board;

4 (5) in a reckless or negligent manner. Actions prohibited in 23-2-523 are considered reckless operation."
5

6 **Section 26.** Section 23-2-601, MCA, is amended to read:

7 **"23-2-601. ~~Definition of terms~~ Definitions.** As used in 23-2-601, 23-2-602, 23-2-611, 23-2-614 through
8 ~~23-2-618~~ 23-2-617, 23-2-621, 23-2-622, 23-2-631 through 23-2-635, and 23-2-641 through 23-2-644, unless the
9 context requires otherwise, the following definitions apply:

10 (1) "Board" means the state parks and recreation board established in [section 1].

11 ~~(1)(2)~~ (2) "Certificate of registration" means the owner's receipt evidencing payment of fees due in order for
12 the snowmobile to be validly registered.

13 ~~(2)(3)~~ (3) "Certificate of title" means the document issued by the department of justice as prima facie
14 evidence of ownership.

15 (4) "Commission" means the fish and wildlife commission established in 2-15-3402.

16 ~~(3)(5)~~ (5) "dbA" means sound pressure level measured on the "A" weight scale in decibels.

17 ~~(4)(6)~~ (6) "Department" means the department of fish, wildlife, and parks ~~of the state of Montana~~ established
18 in 2-15-3401.

19 ~~(5)(7)~~ (7) "New snowmobile" means a snowmobile that has not been previously sold to an owner.

20 ~~(6)(8)~~ (8) "Operator" includes each person who operates or is in actual physical control of the operation of
21 a snowmobile.

22 ~~(7)(9)~~ (9) "Owner" includes each person, other than a lienholder or person having a security interest in a
23 snowmobile, that holds a certificate of title to a snowmobile and is entitled to the use or possession of the
24 snowmobile.

25 ~~(8)(10)~~ (10) "Person" means an individual, partnership, association, corporation, and any other body or group
26 of persons, regardless of the degree of formal organization.

27 ~~(9)(11)~~ (11) "Registration decal" means an adhesive sticker produced and issued by the department of justice,
28 its authorized agent, or a county treasurer to the owner of a snowmobile as proof of payment of all fees imposed
29 for the registration period indicated on the sticker as recorded by the department of justice under 61-3-101.

30 ~~(10)(12)~~ (12) "Roadway" means only those portions of a highway, road, or street improved, designed, or

1 ordinarily used for travel or parking of motor vehicles.

2 ~~(11)(13)~~ "Snowmobile" means a self-propelled vehicle of an overall width of 48 inches or less, excluding
3 accessories, designed primarily for travel on snow or ice, that may be steered by skis or runners and that is not
4 otherwise registered or licensed under the laws of the state of Montana."
5

6 **Section 27.** Section 23-2-641, MCA, is amended to read:

7 **"23-2-641. Enforcement.** (1) With respect to the sale of any new snowmobile that is subject to the
8 provisions of 23-2-601, 23-2-602, 23-2-611, 23-2-614 through ~~23-2-618~~ 23-2-617, 23-2-621, 23-2-622, 23-2-631
9 through 23-2-635, and 23-2-641 through 23-2-644, the attorney general shall, upon the request of the department,
10 sue for the recovery of the penalties provided in 23-2-642 and bring an action for a restraining order or temporary
11 or permanent injunction against a person who sells or offers to sell a new snowmobile that does not satisfy the
12 sound level limitations imposed by 23-2-601, 23-2-602, 23-2-611, 23-2-614 through ~~23-2-618~~ 23-2-617, 23-2-621,
13 23-2-622, 23-2-631 through 23-2-635, and 23-2-641 through 23-2-644.

14 (2) (a) The department is a criminal justice agency for the purpose of obtaining the technical assistance
15 and support services provided by the board of crime control under the provisions of 44-4-301. Authorized officers
16 of the department are granted peace officer status with the power:

17 (i) of search, seizure, and arrest;

18 (ii) to investigate activities in this state regulated by this part and rules of the department, the board, and
19 the fish, wildlife, and parks commission; and

20 (iii) to report violations to the county attorney of the county in which they occur.

21 (b) Sheriffs and their deputies of the various counties of the state, the Montana highway patrol,
22 authorized officers of the department, and the police of each municipality shall enforce the provisions of this part."
23

24 **Section 28.** Section 23-2-652, MCA, is amended to read:

25 **"23-2-652. Definitions.** As used in 23-2-651 through 23-2-655, the following definitions apply:

26 (1) "Snowmobile" means a vehicle defined in 23-2-601~~(11)~~.

27 (2) "Snowmobile area" means those areas designated as snowmobile trails or areas open to the
28 operation of snowmobiles.

29 (3) "Snowmobile area operators" means those persons responsible for the maintenance of snowmobile
30 trails and for the designation of open areas or those persons providing rental snowmobile equipment. Operators

may include but are not limited to the United States forest service, the Montana department of fish, wildlife, and parks, the Montana snowmobile association, individual snowmobile clubs, landowners or their tenants, persons who offer snowmobile equipment for rent, and private trail grooming contractors.

(4) "Snowmobiler" means any person operating or riding a snowmobile."

Section 29. Section 23-2-801, MCA, is amended to read:

"23-2-801. Definition Definitions. (1) As used in this part, the following definitions apply:

(1) "Board" means the state parks and recreation board established in [section 1].

(2) "Commission" means the fish and wildlife commission established in 2-15-3402.

(3) (a) ~~"off-highway~~ "Off-highway vehicle" means a self-propelled vehicle used for recreation or cross-country travel on public lands, trails, easements, lakes, rivers, or streams. The term includes but is not limited to motorcycles, quadricycles, dune buggies, amphibious vehicles, air cushion vehicles, and any other means of land transportation deriving motive power from any source other than muscle or wind.

~~(2) Off-highway vehicle~~ (b) The term does not include:

~~(a)(i)~~ (i) vehicles designed primarily for travel on, over, or in the water;

~~(b)(ii)~~ (ii) snowmobiles; or

~~(c)(iii)~~ (iii) except as provided in 23-2-804, vehicles otherwise issued a certificate of title and registered under the laws of the state, unless the vehicle is used for off-road recreation on public lands."

Section 30. Section 23-2-806, MCA, is amended to read:

"23-2-806. Enforcement. (1) The department of fish, wildlife, and parks enforcement personnel, park rangers, sheriffs and their deputies, the Montana highway patrol, and the police of each municipality shall enforce the provisions of this part.

(2) The department is a criminal justice agency for the purpose of obtaining the technical assistance and support services provided by the board of crime control under the provisions of 44-4-301. Authorized officers of the department are granted peace officer status with the power:

(a) of search, seizure, and arrest;

(b) to investigate activities in this state regulated by this part and rules of the department, the board, and ~~the fish, wildlife, and parks~~ commission; and

(c) to report violations to the county attorney of the county in which they occur.

(3) Park rangers may not carry firearms in the execution of their duties."

Section 31. Section 37-47-310, MCA, is amended to read:

"37-47-310. Transfer or amendment of outfitter's license -- transfer of river-use days to new owner of fishing outfitter business. (1) An outfitter's license may not be transferred.

(2) An individual person may, upon proper showing, have that person's outfitter's license amended to indicate that the license is being held for the use and benefit of a named proprietorship, partnership, or corporation.

(3) Subject to approval by the board, a person designated by the family of an outfitter who is deceased or incapacitated due to physical or mental disease or injury or who is unable to carry out the responsibilities of an outfitter due to the outfitter's status as an active member of the military may continue to provide outfitting services for the outfitter's unexpired license year, or until the family sells the outfitting business, until the designee obtains an outfitter license.

(4) (a) When a fishing outfitter's business is sold or transferred in its entirety, any river-use days that have been allocated to that fishing outfitter through the fishing outfitter's historic use of or activities on restricted-use streams are transferable to the new owner of the fishing outfitter's business. Upon the sale or transfer of a fishing outfitter's business, the outfitter who sells or transfers the business shall notify the new owner that the use of any transferred river-use days is subject to change pursuant to rules adopted by the fish, and wildlife, ~~and parks~~ commission and that a property right does not attach to the transferred river-use days.

(b) Any transferred river-use days on the Smith River are subject to change pursuant to rules adopted by the state parks and recreation board pursuant to 23-2-408."

Section 32. Section 75-1-220, MCA, is amended to read:

"75-1-220. Definitions. For the purposes of this part, the following definitions apply:

(1) "Alternatives analysis" means an evaluation of different parameters, mitigation measures, or control measures that would accomplish the same objectives as those included in the proposed action by the applicant. For a project that is not a state-sponsored project, it does not include an alternative facility or an alternative to the proposed project itself. The term includes alternatives required pursuant to Title 75, chapter 20.

(2) "Appropriate board" means, for administrative actions taken under this part by the:

(a) department of environmental quality, the board of environmental review, as provided for in 2-15-3502;

(b) department of fish, wildlife, and parks, the fish, ~~and wildlife, and parks~~ commission, as provided for in 2-15-3402, and the state parks and recreation board, as provided for in [section 1];

(c) department of transportation, the transportation commission, as provided for in 2-15-2502;

(d) department of natural resources and conservation for state trust land issues, the board of land commissioners, as provided for in Article X, section 4, of the Montana constitution;

(e) department of natural resources and conservation for oil and gas issues, the board of oil and gas conservation, as provided for in 2-15-3303; and

(f) department of livestock, the board of livestock, as provided for in 2-15-3102.

(3) "Complete application" means, for the purpose of complying with this part, an application for a permit, license, or other authorization that contains all data, studies, plans, information, forms, fees, and signatures required to be included with the application sufficient for the agency to approve the application under the applicable statutes and rules.

(4) "Cumulative impacts" means the collective impacts on the human environment within the borders of Montana of the proposed action when considered in conjunction with other past, present, and future actions related to the proposed action by location or generic type.

(5) "Environmental review" means any environmental assessment, environmental impact statement, or other written analysis required under this part by a state agency of a proposed action to determine, examine, or document the effects and impacts of the proposed action on the quality of the human and physical environment within the borders of Montana as required under this part.

(6) "Project sponsor" means any applicant, owner, operator, agency, or other entity that is proposing an action that requires an environmental review. If the action involves state agency-initiated actions on state trust lands, the term also includes each institutional beneficiary of any trust as described in The Enabling Act of Congress (approved February 22, 1899, 25 Stat. 676), as amended, the Morrill Act of 1862 (7 U.S.C. 301 through 308), and the Morrill Act of 1890 (7 U.S.C. 321 through 329).

(7) "Public scoping process" means any process to determine the scope of an environmental review.

(8) (a) "State-sponsored project" means:

(i) a project, program, or activity initiated and directly undertaken by a state agency;

(ii) except as provided in subsection (8)(b)(i), a project or activity supported through a contract, grant, subsidy, loan, or other form of funding assistance from a state agency, either singly or in combination with one or more other state agencies; or

(iii) except as provided in subsection (8)(b)(i), a project or activity authorized by a state agency acting in a land management capacity for a lease, easement, license, or other authorization to act.

(b) The term does not include:

(i) a project or activity undertaken by a private entity that is made possible by the issuance of permits, licenses, leases, easements, grants, loans, or other authorizations to act by the:

(A) department of environmental quality pursuant to Titles 75, 76, or 82;

(B) department of fish, wildlife, and parks pursuant to Title 87, chapter 4, part 4;

(C) board of oil and gas conservation pursuant to Title 82, chapter 11; or

(D) department of natural resources and conservation or the board of land commissioners pursuant to Titles 76, 77, 82, and 85; or

(ii) a project or activity involving the issuance of a permit, license, certificate, or other entitlement for permission to act by another agency acting in a regulatory capacity, either singly or in combination with other state agencies."

Section 33. Section 77-1-405, MCA, is amended to read:

"77-1-405. Island parks established -- development limited. (1) In order to retain the integrity of the recreational experience associated with Montana's river and lake islands, development of undisputed state-owned or state-leased island property, which is hereby designated as island parks, including islands designated as state property under 70-18-203, lying within and surrounded by a navigable river, stream, or lake is limited, after April 30, 1997, to:

(a) the installation of minimal signage indicating that the island is a designated island park in which development has been limited and encouraging the public to help in maintaining the island park's primitive character by picking out trash;

(b) necessary latrine facilities if approved by the ~~fish, wildlife, and parks commission~~ state parks and recreation board established in [section 1];

(c) footings or pilings necessary for the construction of a bridge; and

(d) oil and gas leasing.

(2) Improvements made to and agricultural operations on state-owned or state-leased island property prior to April 30, 1997, may be maintained or continued, but further development is limited as provided in this section.

(3) Notwithstanding the provisions of 77-1-203 regarding multiple-use management, the legislature finds that the highest and best use of island property administered as school trust land, except islands designated as natural areas pursuant to Title 76, chapter 12, is for recreation and grazing and that those islands should be left in as primitive state as possible to protect from the loss of potential future revenue that could result from the failure to leave the islands in an undeveloped condition.

(4) For purposes of this section, state ownership or state lease of island property is disputed if the dispute arises before, on, or after April 30, 1997."

Section 34. Section 85-2-102, MCA, is amended to read:

"85-2-102. Definitions. Unless the context requires otherwise, in this chapter, the following definitions apply:

(1) "Appropriate" means:

(a) to divert, impound, or withdraw, including by stock for stock water, a quantity of water for a beneficial use;

(b) in the case of a public agency, to reserve water in accordance with 85-2-316;

(c) in the case of the department of fish, wildlife, and parks, to change an appropriation right to instream flow to protect, maintain, or enhance streamflows to benefit the fishery resource in accordance with 85-2-436;

(d) in the case of the United States department of agriculture, forest service:

(i) instream flows and in situ use of water created in 85-20-1401, Article V; or

(ii) to change an appropriation right to divert or withdraw water under subsection (1)(a) to instream flow to protect, maintain, or enhance streamflows in accordance with 85-2-320;

(e) temporary changes or leases for instream flow to maintain or enhance instream flow to benefit the fishery resource in accordance with 85-2-408;

(f) a use of water for aquifer recharge or mitigation; or

(g) a use of water for an aquifer storage and recovery project as provided in 85-2-368.

(2) "Aquifer recharge" means either the controlled subsurface addition of water directly to the aquifer or controlled application of water to the ground surface for the purpose of replenishing the aquifer to offset adverse effects resulting from net depletion of surface water.

(3) "Aquifer storage and recovery project" means a project involving the use of an aquifer to temporarily store water through various means, including but not limited to injection, surface spreading and infiltration, drain

fields, or another department-approved method. The stored water may be either pumped from the injection well or other wells for beneficial use or allowed to naturally drain away for a beneficial use.

(4) "Beneficial use", unless otherwise provided, means:

(a) a use of water for the benefit of the appropriator, other persons, or the public, including but not limited to agricultural, stock water, domestic, fish and wildlife, industrial, irrigation, mining, municipal, power, and recreational uses;

(b) a use of water appropriated by the department for the state water leasing program under 85-2-141 and of water leased under a valid lease issued by the department under 85-2-141;

(c) a use of water by the department of fish, wildlife, and parks through a change in an appropriation right for instream flow to protect, maintain, or enhance streamflows to benefit the fishery resource authorized under 85-2-436;

(d) a use of water through a temporary change in appropriation right or lease to enhance instream flow to benefit the fishery resource in accordance with 85-2-408;

(e) a use of water for aquifer recharge or mitigation; or

(f) a use of water for an aquifer storage and recovery project as provided in 85-2-368.

(5) "Certificate" means a certificate of water right issued by the department.

(6) "Change in appropriation right" means a change in the place of diversion, the place of use, the purpose of use, or the place of storage.

(7) "Commission" means the fish, ~~and wildlife, and parks~~ commission provided for in 2-15-3402.

(8) "Correct and complete" means that the information required to be submitted conforms to the standard of substantial credible information and that all of the necessary parts of the form requiring the information have been filled in with the required information for the department to begin evaluating the information.

(9) "Declaration" means the declaration of an existing right filed with the department under section 8, Chapter 452, Laws of 1973.

(10) "Department" means the department of natural resources and conservation provided for in Title 2, chapter 15, part 33.

(11) "Developed spring" means any artificial opening or excavation in the ground, however made, including any physical alteration at the point of discharge regardless of whether it results in any increase in the yield of ground water, from which ground water is sought or can be obtained or through which it flows under natural pressures or is artificially withdrawn.

(12) "Existing right" or "existing water right" means a right to the use of water that would be protected under the law as it existed prior to July 1, 1973. The term includes federal non-Indian and Indian reserved water rights created under federal law and water rights created under state law.

(13) "Ground water" means any water that is beneath the ground surface.

(14) "Late claim" means a claim to an existing right forfeited pursuant to the conclusive presumption of abandonment under 85-2-226.

(15) "Mitigation" means the reallocation of surface water or ground water through a change in appropriation right or other means that does not result in surface water being introduced into an aquifer through aquifer recharge to offset adverse effects resulting from net depletion of surface water.

(16) "Municipality" means an incorporated city or town organized and incorporated under Title 7, chapter 2.

(17) "Permit" means the permit to appropriate issued by the department under 85-2-301 through 85-2-303 and 85-2-306 through 85-2-314.

(18) "Person" means an individual, association, partnership, corporation, state agency, political subdivision, the United States or any agency of the United States, or any other entity.

(19) (a) "Political subdivision" means any county, incorporated city or town, public corporation, or district created pursuant to state law or other public body of the state empowered to appropriate water.

(b) The term does not mean a private corporation, association, or group.

(20) "Salvage" means to make water available for beneficial use from an existing valid appropriation through application of water-saving methods.

(21) "State water reservation" means a water right created under state law after July 1, 1973, that reserves water for existing or future beneficial uses or that maintains a minimum flow, level, or quality of water throughout the year or at periods or for defined lengths of time.

(22) "Substantial credible information" means probable, believable facts sufficient to support a reasonable legal theory upon which the department should proceed with the action requested by the person providing the information.

(23) "Waste" means the unreasonable loss of water through the design or negligent operation of an appropriation or water distribution facility or the application of water to anything but a beneficial use.

(24) "Water" means all water of the state, surface and subsurface, regardless of its character or manner of occurrence, including but not limited to geothermal water, diffuse surface water, and sewage effluent.

(25) "Water division" means a drainage basin as defined in 3-7-102.

(26) "Water judge" means a judge as provided for in Title 3, chapter 7.

(27) "Water master" means a master as provided for in Title 3, chapter 7.

(28) "Watercourse" means any naturally occurring stream or river from which water is diverted for beneficial uses. It does not include ditches, culverts, or other constructed waterways.

(29) "Well" means any artificial opening or excavation in the ground, however made, by which ground water is sought or can be obtained or through which it flows under natural pressures or is artificially withdrawn."

Section 35. Section 87-1-101, MCA, is amended to read:

"87-1-101. Definitions. Unless the context requires otherwise, in this title the following definitions apply:

(1) "Board" means the state parks and recreation board provided for in [section 1].

~~(1)(2)~~ "Commission" means the fish, and wildlife, ~~and parks~~ commission provided for in 2-15-3402.

~~(2)(3)~~ "Department" means the department of fish, wildlife, and parks provided for in Title 2, chapter 15, part 34.

~~(3)(4)~~ "Director" means the director of fish, wildlife, and parks provided for in 2-15-3401.

~~(4)(5)~~ "Warden" means a state fish and game warden."

Section 36. Section 87-1-106, MCA, is amended to read:

"87-1-106. Fish, wildlife, and parks offices. The principal offices of the commission, the board, and the department shall must be located in or near Helena, and suitable and adequate space therefor together with janitor services, light, heat, and water ~~shall must~~ be furnished by the state of Montana."

Section 37. Section 87-1-202, MCA, is amended to read:

"87-1-202. Publication of orders and rules. (1) Except as provided in subsection (2), annual and biennial rules adopted by the commission or the board setting seasonal hunting, fishing, trapping, and land use regulations must be published in a pamphlet format that is made available to the public at all department offices and through all license providers.

(2) Site-specific land use regulations applicable to a particular fishing access site, wildlife management area, park site, or other department land, including but not limited to speed limits, road and off-road restrictions or closures, places where camping is allowed or prohibited, and seasonal closures for management purposes,

1 must be indicated to the public by signs on the premises of the particular fishing access site, wildlife management
2 area, park site, or other department land.

3 (3) (a) Commission orders setting management seasons, providing for game damage hunts, and closing
4 special seasons pursuant to 87-1-304 may be published by:

5 (i) use of the department's website;

6 (ii) use of a telephone hotline number; or

7 (iii) any other method that is readily available to the public.

8 (b) The method for notifying the public of the closure of a special season must be stated in the rule that
9 establishes the special season.

10 (4) Public notification of emergency closures of department lands, public waterways, and hunting, fishing,
11 and trapping seasons that are based on public health, safety, and welfare must be made in the manner and to
12 the extent that the department considers necessary in light of the facts surrounding the emergency, including,
13 when practical, onsite posting of the emergency closure."
14

15 **Section 38.** Section 87-1-209, MCA, is amended to read:

16 **"87-1-209. (Temporary) Acquisition and sale of land or water.** (1) Subject to 87-1-218, the
17 department, with the consent of the commission or the board and, in the case of land acquisition involving more
18 than 100 acres or \$100,000 in value, the approval of the board of land commissioners, may acquire by purchase,
19 lease, agreement, gift, or devise and may acquire easements upon land or water for the purposes listed in this
20 subsection. Any acquisition of land or water rights for purposes of this subsection, except that portion of
21 acquisitions made with funds provided under 87-1-242(1), must include an additional 20% above the purchase
22 price to be used for maintenance of land or water acquired by the department. The additional amount above the
23 purchase price or \$300,000, whichever is less, must be deposited in the account established in 87-1-230. As used
24 in this subsection, "maintenance" means that term as defined in and consistent with the good neighbor policy in
25 23-1-127(2). The department may develop, operate, and maintain acquired land or water rights:

26 (a) for fish hatcheries or nursery ponds;

27 (b) as land or water suitable for game, bird, fish, or fur-bearing animal restoration, propagation, or
28 protection;

29 (c) for public hunting, fishing, or trapping areas;

30 (d) to capture, propagate, transport, buy, sell, or exchange any game, birds, fish, fish eggs, or fur-bearing

1 animals needed for propagation or stocking purposes or to exercise control measures of undesirable species;
2 (e) for state parks and outdoor recreation;
3 (f) to extend and consolidate by exchange, land or water rights suitable for these purposes.

4 (2) The department, with the consent of the ~~commission~~ board, may acquire by condemnation, as
5 provided in Title 70, chapter 30, land or structures for the preservation of ~~historical~~ historic or archaeological sites
6 that are threatened with destruction or alteration.

7 (3) (a) Subject to section 2(3), Chapter 560, Laws of 2005, the department, with the consent of the
8 ~~commission~~ or the board, may dispose of land and water rights acquired by it on those terms after public notice
9 as required by subsection (3)(b) of this section, without regard to other laws that provide for sale or disposal of
10 state land and with or without reservation, as it considers necessary and advisable. The department, with the
11 consent of the ~~commission~~ or the board, may convey department land and water rights for full market value to
12 other governmental entities or to adjacent landowners without regard to the requirements of subsection (3)(b) or
13 (3)(c) if the land is less than 10 acres or if the full market value of the interest to be conveyed is less than \$20,000.
14 When the department conveys land or water rights to another governmental entity or to an adjacent landowner
15 pursuant to this subsection, the department, in addition to giving notice pursuant to subsection (3)(b), shall give
16 notice by mail to the landowners whose property adjoins the department property being conveyed.

17 (b) Subject to section 2(3), Chapter 560, Laws of 2005, notice of sale describing the land or water rights
18 to be disposed of must be published once a week for 3 successive weeks in a newspaper with general circulation
19 printed and published in the county where the land or water right is situated or, if a newspaper is not published
20 in that county, then in any newspaper with general circulation in that county.

21 (c) The notice must advertise for cash bids to be presented to the director within 60 days from the date
22 of the first publication. Each bid must be accompanied by a cashier's check or cash deposit in an amount equal
23 to 10% of the amount bid. The highest bid must be accepted upon payment of the balance due within 10 days
24 after mailing notice by certified mail to the highest bidder. If that bidder defaults on payment of the balance due,
25 then the next highest bidders must be similarly notified in succession until a sale is completed. Deposits must be
26 returned to the unsuccessful bidders except bidders defaulting after notification.

27 (d) The department shall reserve the right to reject any bids that do not equal or exceed the full market
28 value of the land or water right as determined by the department. If the department does not receive a bid that
29 equals or exceeds fair market value, it may then sell the land or water rights at private sale. The price accepted
30 on any private sale must exceed the highest bid rejected in the bid process.

(4) When necessary and advisable for the management and use of department property, the director is authorized to grant or acquire from willing sellers right-of-way easements for purposes of utilities, roads, drainage facilities, ditches for water conveyance, and pipelines if the full market value of the interest to be acquired is less than \$20,000. Whenever possible, easements must include a weed management plan. Approval of the commission or the board is not required for grants and acquisitions made pursuant to this subsection. In granting any right-of-way pursuant to this subsection, the department shall obtain a fair market value, but the department is not otherwise required to follow the disposal requirements of subsection (3). The director shall report any easement grant or acquisition made pursuant to this subsection to the commission or the board at its next regular meeting.

(5) The department shall convey land and water rights without covenants of warranty by deed executed by the governor or in the governor's absence or disability by the lieutenant governor, attested by the secretary of state and further countersigned by the director.

(6) Subject to 87-1-218, the department, with the consent of the commission, is authorized to utilize the installment contract method to facilitate the acquisition of wildlife management areas in which game and nongame fur-bearing animals and game and nongame birds may breed and replenish and areas that provide access to fishing sites for the public. The total cost of installment contracts may not exceed the cost of purchases authorized by the department and appropriated by the legislature.

(7) The department is authorized to enter into leases of land under its control in exchange for services to be provided by the lessee on the leased land. (Terminates June 30, 2013--sec. 8, Ch. 427, L. 2009.)

87-1-209. (Effective July 1, 2013) Acquisition and sale of lands or waters. (1) Subject to 87-1-218, the department, with the consent of the commission or the board and, in the case of land acquisition involving more than 100 acres or \$100,000 in value, the approval of the board of land commissioners, may acquire by purchase, lease, agreement, gift, or devise and may acquire easements upon lands or waters for the purposes listed in this subsection. The department may develop, operate, and maintain acquired lands or waters:

(a) for fish hatcheries or nursery ponds;

(b) as lands or water suitable for game, bird, fish, or fur-bearing animal restoration, propagation, or protection;

(c) for public hunting, fishing, or trapping areas;

(d) to capture, propagate, transport, buy, sell, or exchange any game, birds, fish, fish eggs, or fur-bearing animals needed for propagation or stocking purposes or to exercise control measures of undesirable species;

1 (e) for state parks and outdoor recreation;

2 (f) to extend and consolidate by exchange, lands or waters suitable for these purposes.

3 (2) The department, with the consent of the ~~commission~~ board, may acquire by condemnation, as
4 provided in Title 70, chapter 30, lands or structures for the preservation of ~~historical~~ historic or archaeological
5 sites that are threatened with destruction or alteration.

6 (3) (a) Subject to section 2(3), Chapter 560, Laws of 2005, the department, with the consent of the
7 commission or the board, may dispose of lands and water rights acquired by it on those terms after public notice
8 as required by subsection (3)(b) of this section, without regard to other laws that provide for sale or disposal of
9 state lands and with or without reservation, as it considers necessary and advisable. The department, with the
10 consent of the commission or the board, may convey department lands and water rights for full market value to
11 other governmental entities or to adjacent landowners without regard to the requirements of subsection (3)(b) or
12 (3)(c) if the land is less than 10 acres or if the full market value of the interest to be conveyed is less than \$20,000.
13 When the department conveys land or water rights to another governmental entity or to an adjacent landowner
14 pursuant to this subsection, the department, in addition to giving notice pursuant to subsection (3)(b), shall give
15 notice by mail to the landowners whose property adjoins the department property being conveyed.

16 (b) Subject to section 2(3), Chapter 560, Laws of 2005, notice of sale describing the lands or waters to
17 be disposed of must be published once a week for 3 successive weeks in a newspaper with general circulation
18 printed and published in the county where the lands or waters are situated or, if a newspaper is not published in
19 that county, then in any newspaper with general circulation in that county.

20 (c) The notice must advertise for cash bids to be presented to the director within 60 days from the date
21 of the first publication. Each bid must be accompanied by a cashier's check or cash deposit in an amount equal
22 to 10% of the amount bid. The highest bid must be accepted upon payment of the balance due within 10 days
23 after mailing notice by certified mail to the highest bidder. If that bidder defaults on payment of the balance due,
24 then the next highest bidders must be similarly notified in succession until a sale is completed. Deposits must be
25 returned to the unsuccessful bidders except bidders defaulting after notification.

26 (d) The department shall reserve the right to reject any bids that do not equal or exceed the full market
27 value of the lands and waters as determined by the department. If the department does not receive a bid that
28 equals or exceeds fair market value, it may then sell the lands or water rights at private sale. The price accepted
29 on any private sale must exceed the highest bid rejected in the bid process.

30 (4) When necessary and advisable for the management and use of department property, the director

1 is authorized to grant or acquire from willing sellers right-of-way easements for purposes of utilities, roads,
2 drainage facilities, ditches for water conveyance, and pipelines if the full market value of the interest to be
3 acquired is less than \$20,000. Whenever possible, easements must include a weed management plan. Approval
4 of the commission or the board is not required for grants and acquisitions made pursuant to this subsection. In
5 granting any right-of-way pursuant to this subsection, the department shall obtain a fair market value, but the
6 department is not otherwise required to follow the disposal requirements of subsection (3). The director shall
7 report any easement grant or acquisition made pursuant to this subsection to the commission or the board at its
8 next regular meeting.

9 (5) The department shall convey lands and water rights without covenants of warranty by deed executed
10 by the governor or in the governor's absence or disability by the lieutenant governor, attested by the secretary
11 of state and further countersigned by the director.

12 (6) Subject to 87-1-218, the department, with the consent of the commission, is authorized to utilize the
13 installment contract method to facilitate the acquisition of wildlife management areas in which game and nongame
14 fur-bearing animals and game and nongame birds may breed and replenish and areas that provide access to
15 fishing sites for the public. The total cost of installment contracts may not exceed the cost of purchases authorized
16 by the department and appropriated by the legislature.

17 (7) The department is authorized to enter into leases of land under its control in exchange for services
18 to be provided by the lessee on the leased land."

19
20 **Section 39.** Section 87-1-218, MCA, is amended to read:

21 **"87-1-218. Notice of proposed land acquisitions.** (1) For all land acquisitions proposed pursuant to
22 87-1-209, the department shall provide notice to the board of county commissioners in the county where the
23 proposed acquisition is located.

24 (2) The notice must be provided at least 30 days before the proposed acquisition appears before the
25 commission or the board for its consent.

26 (3) The notice must include:

27 (a) a description of the proposed acquisition, including acreage and the use proposed by the department;

28 (b) an estimate of the measures and costs the department plans to undertake in furtherance of the
29 proposed use, including operating, staffing, and maintenance costs;

30 (c) an estimate of the property taxes payable on the proposed acquisition and a statement that if the

1 department acquires the land pursuant to 87-1-603, the department would pay a sum equal to the amount of
2 taxes that would be payable on the county assessment of the property if it was taxable to a private citizen; and

3 (d) a draft agenda of the meeting at which the proposed acquisition will be presented to the commission
4 or the board and information on how the board of county commissioners may provide comment."

5
6 **Section 40.** Section 87-1-301, MCA, is amended to read:

7 **"87-1-301. Powers of commission.** (1) Except as provided in ~~subsection~~ subsections (7) and (8), the
8 commission:

9 (a) shall set the policies for the protection, preservation, management, and propagation of the wildlife,
10 fish, game, furbearers, waterfowl, nongame species, and endangered species of the state and for the fulfillment
11 of all other responsibilities of the department related to fish and wildlife as provided by law;

12 (b) shall establish the hunting, fishing, and trapping rules of the department;

13 (c) except as provided in [section 2], 23-2-501, and 87-1-303(3), shall establish the rules of the
14 department governing the use of lands owned or controlled by the department and waters under the jurisdiction
15 of the department;

16 (d) must have the power within the department to establish wildlife refuges and bird and game preserves;

17 (e) shall approve all acquisitions or transfers by the department of interests in land or water, except as
18 provided in [section 2] and 87-1-209(4)(2) and (4);

19 (f) except as provided in [section 2], shall review and approve the budget of the department prior to its
20 transmittal to the ~~budget~~ office of budget and program planning;

21 (g) except as provided in [section 2], shall review and approve construction projects that have an
22 estimated cost of more than \$1,000 but less than \$5,000; and

23 (h) shall manage elk, deer, and antelope populations based on habitat estimates determined as provided
24 in 87-1-322 and maintain elk, deer, and antelope population numbers at or below population estimates as
25 provided in 87-1-323. In developing or implementing an elk management plan, the commission shall consider
26 landowner tolerance when deciding whether to restrict elk hunting on surrounding public land in a particular
27 hunting district. As used in this subsection (1)(h), "landowner tolerance" means the written or documented verbal
28 opinion of an affected landowner regarding the impact upon the landowner's property within the particular hunting
29 district where a restriction on elk hunting on public property is proposed.

30 (2) The commission may adopt rules regarding the use and type of archery equipment that may be

1 employed for hunting and fishing purposes, taking into account applicable standards as technical innovations in
2 archery equipment change.

3 (3) The commission may adopt rules regarding the establishment of special licenses or permits, seasons,
4 conditions, programs, or other provisions that the commission considers appropriate to promote or enhance
5 hunting by Montana's youth and persons with disabilities.

6 (4) (a) The commission may adopt rules regarding nonresident big game combination licenses to:

7 (i) separate deer licenses from nonresident elk combination licenses;

8 (ii) set the fees for the separated deer combination licenses and the elk combination licenses without the
9 deer tag;

10 (iii) condition the use of the deer licenses; and

11 (iv) limit the number of licenses sold.

12 (b) The commission may exercise the rulemaking authority in subsection (4)(a) when it is necessary and
13 appropriate to regulate the harvest by nonresident big game combination license holders:

14 (i) for the biologically sound management of big game populations of elk, deer, and antelope;

15 (ii) to control the impacts of those elk, deer, and antelope populations on uses of private property; and

16 (iii) to ensure that elk, deer, and antelope populations are at a sustainable level as provided in 87-1-321
17 through 87-1-325.

18 (5) (a) Subject to the provisions of 87-2-115, the commission may adopt rules establishing license
19 preference systems to distribute hunting licenses and permits:

20 (i) giving an applicant who has been unsuccessful for a longer period of time priority over an applicant
21 who has been unsuccessful for a shorter period of time; and

22 (ii) giving a qualifying landowner a preference in drawings. As used in this subsection (5)(a), "qualifying
23 landowner" means the owner of land that provides some significant habitat benefit for wildlife, as determined by
24 the commission.

25 (b) The commission shall square the number of points purchased by an applicant per species when
26 conducting drawings for licenses and permits.

27 (6) (a) The commission may adopt rules to:

28 (i) limit the number of nonresident mountain lion hunters in designated hunting districts; and

29 (ii) determine the conditions under which nonresidents may hunt mountain lion in designated hunting
30 districts.

(b) The commission shall consider, but is not limited to consideration of, the following factors:

(i) harvest of lions by resident and nonresident hunters;

(ii) history of quota overruns;

(iii) composition, including age and sex, of the lion harvest;

(iv) historical outfitter use;

(v) conflicts among hunter groups;

(vi) availability of public and private lands; and

(vii) whether restrictions on nonresident hunters are more appropriate than restrictions on all hunters.

(7) The commission may not regulate the use or possession of firearms, firearm accessories, or ammunition, including the chemical elements of ammunition used for hunting. This does not prevent:

(a) the restriction of certain hunting seasons to the use of specified hunting arms, such as the establishment of special archery seasons;

(b) for human safety, the restriction of certain areas to the use of only specified hunting arms, including bows and arrows, traditional handguns, and muzzleloading rifles;

(c) the restriction of the use of shotguns for the hunting of deer and elk pursuant to 87-6-401(1)(f);

(d) the regulation of migratory game bird hunting pursuant to 87-3-403; or

(e) the restriction of the use of rifles for bird hunting pursuant to 87-6-401(1)(g) or (1)(h).

(8) Pursuant to [section 2], the commission does not oversee department activities related to the administration of state parks, primitive parks, state recreational areas, public camping grounds, state historic sites, state monuments, and other heritage and recreational resources, land, and water administered pursuant to Title 23, chapter 1, and Title 23, chapter 2, parts 1, 4, 5, 6, 8, and 9."

Section 41. Section 87-1-303, MCA, is amended to read:

"87-1-303. Rules for use of lands and waters. (1) Except as provided in [section 2], 87-1-301(7), and subsection (3) of this section, the commission may adopt and enforce rules governing uses of lands that are acquired or held under easement by the commission or lands that it operates under agreement with or in conjunction with a federal or state agency or private owner. The rules must be adopted in the interest of public health, public safety, and protection of property in regulating the use of these lands. All lease and easement agreements must itemize uses as listed in 87-1-209.

(2) Except as provided in [section 2], 23-2-501, and 87-1-301(7), the commission may adopt and enforce

rules governing recreational uses of all public fishing reservoirs, public lakes, rivers, and streams that are legally accessible to the public or on reservoirs and lakes that it operates under agreement with or in conjunction with a federal or state agency or private owner. These rules must be adopted in the interest of public health, public safety, public welfare, and protection of property and public resources in regulating swimming, hunting, fishing, trapping, boating, including but not limited to boating speed regulations, the operation of motor-driven boats, the operation of personal watercraft, the resolution of conflicts between users of motorized and nonmotorized boats, waterskiing, surfboarding, picnicking, camping, sanitation, and use of firearms on the reservoirs, lakes, rivers, and streams or at designated areas along the shore of the reservoirs, lakes, rivers, and streams. Areas regulated pursuant to the authority contained in this section must be areas that are legally accessible to the public. These rules are subject to review and approval by the department of public health and human services with regard to issues of public health and sanitation before becoming effective. Copies of the rules must show that endorsement.

(3) (a) The commission may not regulate or classify domestic livestock trailing as a commercial activity or commercial use that is subject to licensing, permitting, or fee requirements. Domestic livestock trailing on land owned or controlled by the department is exempt from the requirements of Title 75, chapter 1, parts 1 through 3.

(b) The commission may authorize domestic livestock trailing across land owned or controlled by the department that is designated as a wildlife management area. The commission may adopt rules governing the timing of and the route to be used for domestic livestock trailing activities to the extent that the rules are necessary both to enable the trailing of domestic livestock across the designated wildlife management area and to protect and enhance state lands. The rules may not:

- (i) require a fee for domestic livestock trailing or related activities; or
- (ii) prohibit or unreasonably interfere with domestic livestock trailing activities.

(4) For the purposes of this section, the following definitions apply:

(a) "Domestic livestock" means domestic animals kept for farm and ranch purposes, including but not limited to horses, cattle, sheep, goats, and dogs.

(b) "Domestic livestock trailing" means the entering upon and crossing of department lands and the use of the lands for forage by domestic livestock for a maximum of 96 consecutive hours."

Section 42. Section 87-1-306, MCA, is amended to read:

"87-1-306. Designation of certain river stretches as no-wake waters -- personal watercraft use

1 **prohibited.** (1) In the interest of public health, safety, and welfare and protection of property and public
2 resources, the use of personal watercraft is prohibited on the headwaters of the Missouri River downstream to
3 its confluence with Prewett Creek, except in Missouri River reservoirs, and including all tributaries but not their
4 reservoirs.

5 (2) The waters from Hauser dam downstream to Beaver Creek are limited to a controlled no-wake speed.

6 (3) This section does not apply to the use of the designated waters for search and rescue, official patrol,
7 or scientific purposes.

8 (4) This section may not be construed to limit the authority of the commission, the board, or the
9 department to enact by administrative rule or to enforce any other restrictions on any surface waters in the
10 interests of public health, safety, or welfare, the protection of property or public resources, or the resolution of
11 conflicts between users of motorized and nonmotorized boats."

12
13 **Section 43.** Section 87-1-401, MCA, is amended to read:

14 **"87-1-401. Director to carry out policies.** The director shall carry out the policies of the commission
15 and the board and shall adopt rules authorized by law to implement those policies."

16
17 **Section 44.** Section 87-1-622, MCA, is amended to read:

18 **"87-1-622. Forest management plan -- sustainable yield study required -- definition.** (1) The
19 commission and the board shall adopt ~~a forest management plan~~ plans for lands under their jurisdiction, based
20 on an annual sustainable yield, to implement the provisions of 87-1-201(9)(a)(iv).

21 (2) The department, under the direction of the commission, shall, before July 1, 2012, commission a
22 study by a qualified independent third party to determine, using scientific principles, the annual sustainable yield
23 on forested department lands. The department shall direct the qualified independent third party to determine the
24 annual sustainable yield pursuant to all state and federal laws.

25 (3) The annual timber sale requirement for the timber sale program administered by the department to
26 address fire mitigation, pine beetle infestation, and wildlife habitat enhancement may not exceed the annual
27 sustainable yield.

28 (4) The commission and the board shall review and redetermine the annual sustainable yield for lands
29 under their jurisdiction at least once every 5 years.

30 (5) Expenditures necessary to meet the requirements of this section are authorized to be made by the

1 department pursuant to 87-1-601.

2 (6) For the purposes of this section, the term "annual sustainable yield" means the quantity of timber that
3 can be harvested from forested department lands each year, taking into account the ability of forested lands to
4 generate replacement tree growth and in accordance with:

5 (a) the provisions of 87-1-201(9)(a)(iv);

6 (b) state and federal laws, including but not limited to the laws pertaining to wildlife, recreation, and
7 maintenance of watersheds; and

8 (c) water quality standards that protect fisheries and aquatic life and that are adopted under the
9 provisions of Title 75, chapter 5."

10

11 **Section 45.** Section 87-4-432, MCA, is amended to read:

12 **"87-4-432. Alternative livestock advisory council -- appointment of members -- duties.** (1) There
13 is an alternative livestock advisory council to advise the department on the administration of alternative livestock
14 ranches in this state.

15 (2) The alternative livestock advisory council is composed of five members, appointed by the governor
16 as follows:

17 (a) one member of the board of livestock or the department of livestock;

18 (b) one member of the fish, and wildlife, ~~and parks~~ commission or the department;

19 (c) one member who is a representative of the alternative livestock industry;

20 (d) one member who is a veterinarian licensed to practice veterinary medicine in this state; and

21 (e) one member who is a representative of the sportspersons of Montana.

22 (3) Members of the alternative livestock advisory council shall serve staggered 2-year terms. A member
23 may serve one additional consecutive 2-year term.

24 (4) The alternative livestock advisory council is attached to the department and the department of
25 livestock in an advisory capacity only, as defined in 2-15-102. The department and the department of livestock
26 shall provide staff support and assistance necessary for the council to perform its functions."

27

28 NEW SECTION. **Section 46. Name change -- directions to code commissioner.** (1) Unless otherwise
29 provided, wherever a reference to the fish, wildlife, and parks commission, meaning the commission established
30 in 2-15-3402, appears in legislation enacted by the 2013 legislature that refers to functions of the commission

related to fish and wildlife, the code commissioner is directed to change it to an appropriate reference to the fish and wildlife commission.

(2) Unless otherwise provided, wherever a reference to the fish, wildlife, and parks commission, meaning the commission established in 2-15-3402, appears in legislation enacted by the 2013 legislature that refers to functions of the commission related to state parks or recreational resources under Title 23, chapter 1, and Title 23, chapter 2, parts 1, 4, 5, 6, 8, and 9, the code commissioner is directed to change it to an appropriate reference to the state parks and recreation board.

NEW SECTION. Section 47. Codification instruction. (1) [Section 1] is intended to be codified as an integral part of Title 2, chapter 15, part 34, and the provisions of Title 2, chapter 15, part 34, apply to [section 1].

(2) [Section 2] is intended to be codified as an integral part of Title 23, chapter 1, part 1, and the provisions of Title 23, chapter 1, part 1, apply to [section 2].

NEW SECTION. Section 48. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

NEW SECTION. Section 49. Effective date. [This act] is effective July 1, 2013.

- END -

HOUSE BILL NO. 24

INTRODUCED BY D. ANKNEY

BY REQUEST OF THE ENVIRONMENTAL QUALITY COUNCIL

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING THE STATE PARKS AND RECREATION BOARD; PROVIDING POWERS AND DUTIES; GRANTING RULEMAKING AUTHORITY; RENAMING THE FISH, WILDLIFE, AND PARKS COMMISSION; AMENDING SECTIONS 2-15-3110, 2-15-3113, 2-15-3401, 2-15-3402, 2-15-3404, 23-1-101, 23-1-102, 23-1-106, 23-1-108, 23-1-110, 23-1-121, 23-1-122, 23-2-301, 23-2-403, 23-2-404, 23-2-408, 23-2-410, ~~23-2-501, 23-2-502, 23-2-506, 23-2-525, 23-2-529, 23-2-531, 23-2-601, 23-2-641, 23-2-652, 23-2-801, 23-2-806,~~ 37-47-310, 75-1-220, 77-1-405, 85-2-102, 87-1-101, 87-1-106, 87-1-202, 87-1-209, 87-1-218, 87-1-301, 87-1-303, ~~87-1-306,~~ 87-1-401, 87-1-622, AND 87-4-432, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. State parks and recreation board -- composition. (1) There is a state parks and recreation board.

(2) The board consists of five members appointed by the governor, as prescribed in 2-15-124. The governor shall appoint one member from each of the following districts:

(a) District No. 1, consisting of Lincoln, Flathead, Sanders, Lake, Mineral, Missoula, Powell, Ravalli, Granite, and Lewis and Clark Counties;

(b) District No. 2, consisting of Deer Lodge, Silver Bow, Beaverhead, Madison, Jefferson, Broadwater, Gallatin, Park, and Sweet Grass Counties;

(c) District No. 3, consisting of Glacier, Toole, Liberty, Hill, Pondera, Teton, Chouteau, Cascade, Judith Basin, Fergus, Blaine, Meagher, and Wheatland Counties;

(d) District No. 4, consisting of Phillips, Valley, Daniels, Sheridan, Roosevelt, Petroleum, Garfield, McCone, Richland, Dawson, and Wibaux Counties;

(e) District No. 5, consisting of Golden Valley, Musselshell, Stillwater, Carbon, Yellowstone, Big Horn, Treasure, Rosebud, Custer, Powder River, Carter, Fallon, and Prairie Counties.

(3) Appointments must be made without regard to political affiliation and must be made solely for the

wise management of state parks and outdoor recreational resources administered pursuant to Title 23, chapter 1, and Title 23, chapter 2, parts 1, 4, 5, ~~6, 8,~~ and 9.

(4) A person appointed to the board must be informed or experienced in the conservation and protection of state parks, heritage resources, natural resources, tourism promotion and development, or outdoor recreation.

(5) A vacancy on the board must be filled by the governor in the same manner and from the district in which the vacancy occurs.

(6) The board is designated as a quasi-judicial board for purposes of 2-15-124, except that the requirement that at least one member be an attorney does not apply.

~~(7) The administrator of the division that oversees state parks is the secretary of the board.~~

NEW SECTION. Section 2. Powers and duties of board -- rulemaking -- meetings. (1) Except as provided in subsection (2), for state parks, primitive parks, state recreational areas, public camping grounds, state historic sites, state monuments, and other heritage and recreational resources, land, and water administered pursuant to Title 23, chapter 1, and Title 23, chapter 2, parts 1, 4, 5, ~~6, 8,~~ and 9, the board shall:

(a) set the policies and provide direction to the department for:

(i) the management, protection, conservation, and preservation of these properties, lands, and waters ~~in a way that promotes their importance~~ AND THEIR APPROPRIATE ROLE RELATIVE to tourism and the economic health of Montana;

(ii) coordinating, integrating, promoting, and furthering opportunities for education and recreation at these sites, including but not limited to camping, hiking, snowmobiling, off-highway vehicle use, horseback riding, mountain biking, ~~and boating,~~ AND SWIMMING;

(b) work with the commission to maintain hunting and angling opportunities on these lands and waters;

(c) establish the rules of the department governing the use of these properties; AND ~~lands, and waters.~~

The rules must be adopted in the interest of public health, public safety, PUBLIC WELFARE, and protection of property and public resources in regulating RECREATION, INCLUDING picnicking, camping, AND SWIMMING, AND ~~sanitation, swimming, and boating, including but not limited to boating speed regulations, the operation of motor-driven boats, the operation of personal watercraft, the resolution of conflicts between users of motorized and nonmotorized boats, waterskiing, and surfboarding.~~ These rules are subject to review and approval by the department of public health and human services with regard to issues of public health and sanitation before becoming effective. Copies of the rules must show that endorsement.

(d) review and approve all acquisitions or transfers of interest in these properties, lands, and waters by the department, EXCEPT AS PROVIDED IN 87-1-209(4);

(e) review and approve the budget of the department for the administration of these properties, lands, and waters prior to its transmittal to the office of budget and program planning;

(f) review and approve construction projects that have an estimated cost of more than ~~\$1,000 but less than~~ \$5,000;

(g) work with local, state, and federal agencies to evaluate, integrate, coordinate, and promote recreational opportunities statewide; and

(h) encourage citizen involvement in management planning for these properties, lands, and waters.

(2) Pursuant to 87-1-301(1), the board does not oversee department activities related to the administration of fishing access sites.

(3) The members of the board shall hold quarterly or other meetings for the transaction of business at times and places considered necessary and proper. The meetings must be called by the presiding officer or by a majority of the board and must be held at the time and place specified in the call for the meeting. A majority of the members constitutes a quorum for the transaction of any business. The board shall keep a record of all the business it transacts. The presiding officer and secretary shall sign all orders, minutes, or documents for the board.

Section 3. Section 2-15-3110, MCA, is amended to read:

"2-15-3110. Livestock loss board -- purpose, membership, and qualifications. (1) There is a livestock loss board. The purpose of the board is to administer the programs called for in the Montana gray wolf management plan and established in 2-15-3111 through 2-15-3113, with funds provided through the accounts established in 81-1-110, in order to minimize losses caused by wolves to livestock producers and to reimburse livestock producers for livestock losses from wolf predation.

(2) The board consists of seven members, appointed by the governor, as follows:

(a) three members from a list of names recommended by the board of livestock;

(b) three members from a list of names recommended by the fish, and wildlife, ~~and parks~~ commission; and

(c) one member of the general public.

(3) Each board member must have knowledge of or have experience in at least one of the following:

- 1 (a) the raising of livestock in Montana;
- 2 (b) livestock marketing, valuations, sales, or breeding associations;
- 3 (c) the interaction of wolves with livestock and livestock mortality caused by wolves;
- 4 (d) wildlife conservation;
- 5 (e) administration; and
- 6 (f) fundraising.

7 (4) The board is designated as a quasi-judicial board for the purposes of 2-15-124. Notwithstanding the
8 provisions of 2-15-124(1), the governor is not required to appoint an attorney to serve as a member of the board.

9 (5) The board is allocated to the department of livestock for administrative purposes only as provided
10 in 2-15-121.

11 (6) The board shall adopt rules to implement the provisions of 2-15-3110 through 2-15-3114 and
12 81-1-110 through 81-1-112."

13
14 **Section 4.** Section 2-15-3113, MCA, is amended to read:

15 **"2-15-3113. Additional powers and duties of livestock loss board.** (1) The livestock loss board shall:

- 16 (a) process claims;
- 17 (b) seek information necessary to ensure that claim documentation is complete;
- 18 (c) provide payments authorized by the board for confirmed and probable livestock losses, along with
19 a written explanation of payment;
- 20 (d) submit monthly and annual reports to the board of livestock summarizing claims and expenditures
21 and the results of action taken on claims and maintain files of all claims received, including supporting
22 documentation;
- 23 (e) provide information to the board of livestock regarding appealed claims and implement any decision
24 by the board;
- 25 (f) prepare the annual budget for the board; and
- 26 (g) provide proper documentation of staff time and expenditures.

27 (2) The livestock loss board may enter into an agreement with any Montana tribe, if the tribe has adopted
28 a wolf management plan for reservation lands that is consistent with the state wolf management plan, to provide
29 that tribal lands within reservation boundaries are eligible for mitigation grants pursuant to 2-15-3111 and that
30 livestock losses on tribal lands within reservation boundaries are eligible for reimbursement payments pursuant

1 to 2-15-3112.

2 (3) The livestock loss board shall:

3 (a) coordinate and share information with state, federal, and tribal officials, livestock producers,
4 nongovernmental organizations, and the general public in an effort to reduce livestock losses caused by wolves;

5 (b) establish an annual budget for the prevention, mitigation, and reimbursement of livestock losses
6 caused by wolves;

7 (c) perform or contract for the performance of periodic program audits and reviews of program
8 expenditures, including payments to individuals, incorporated entities, and producers who receive loss reduction
9 grants and reimbursement payments;

10 (d) adjudicate appeals of claims;

11 (e) investigate alternative or enhanced funding sources, including possible agreements with public
12 entities and private wildlife or livestock organizations that have active livestock loss reimbursement programs in
13 place;

14 (f) meet as necessary to conduct business; and

15 (g) report annually to the governor, the legislature, members of the Montana congressional delegation,
16 the board of livestock, the fish, and wildlife, ~~and parks~~ commission, and the public regarding results of the
17 programs established in 2-15-3111 through 2-15-3113.

18 (4) The livestock loss board may sell or auction any wolf carcasses or parts of wolf carcasses received
19 pursuant to 87-1-217. The proceeds, minus the costs of the sale including the preparation of the carcass or part
20 of the carcass for sale, must be deposited into the livestock loss reduction and mitigation special revenue account
21 established in 81-1-110(2)(a) and used for the purposes of 2-15-3111 through 2-15-3114."

22
23 **Section 5.** Section 2-15-3401, MCA, is amended to read:

24 **"2-15-3401. Department of fish, wildlife, and parks -- head.** There is a department of fish, wildlife, and
25 parks. The department head is the director of fish, wildlife, and parks appointed by the governor in accordance
26 with 2-15-111. The director is the secretary of the:

27 (1) fish and wildlife commission established in 2-15-3402; AND

28 (2) STATE PARKS AND RECREATION BOARD ESTABLISHED IN [SECTION 1]."

29
30 **Section 6.** Section 2-15-3402, MCA, is amended to read:

1 **"2-15-3402. Fish, and wildlife, ~~and parks~~ commission.** (1) There is a fish, and wildlife, ~~and parks~~
2 commission.

3 (2) The commission consists of five members. At least one member must be experienced in the breeding
4 and management of domestic livestock. The governor shall appoint one member from each of the following
5 districts:

6 (a) District No. 1, consisting of Lincoln, Flathead, Sanders, Lake, Mineral, Missoula, Powell, Ravalli,
7 Granite, and Lewis and Clark Counties;

8 (b) District No. 2, consisting of Deer Lodge, Silver Bow, Beaverhead, Madison, Jefferson, Broadwater,
9 Gallatin, Park, and Sweet Grass Counties;

10 (c) District No. 3, consisting of Glacier, Toole, Liberty, Hill, Pondera, Teton, Chouteau, Cascade, Judith
11 Basin, Fergus, Blaine, Meagher, and Wheatland Counties;

12 (d) District No. 4, consisting of Phillips, Valley, Daniels, Sheridan, Roosevelt, Petroleum, Garfield,
13 McCone, Richland, Dawson, and Wibaux Counties;

14 (e) District No. 5, consisting of Golden Valley, Musselshell, Stillwater, Carbon, Yellowstone, Big Horn,
15 Treasure, Rosebud, Custer, Powder River, Carter, Fallon, and Prairie Counties.

16 (3) Appointments must be made without regard to political affiliation and must be made solely for the
17 wise management of fish, wildlife, ~~and state parks~~ and ~~other outdoor~~ related recreational resources of this state.
18 A person may not be appointed to the commission unless the person is informed or interested and experienced
19 in the subject of fish, wildlife, ~~parks~~, and ~~outdoor~~ recreation and the requirements for the conservation and
20 protection of fish, wildlife, ~~parks~~, and ~~outdoor~~ recreational resources.

21 (4) A vacancy occurring on the commission must be filled by the governor in the same manner and from
22 the district in which the vacancy occurs.

23 (5) The fish, and wildlife, ~~and parks~~ commission is designated as a quasi-judicial board for purposes of
24 2-15-124. Notwithstanding the provisions of 2-15-124(1), the governor is not required to appoint an attorney to
25 serve as a member of the commission."
26

27 **Section 7.** Section 2-15-3404, MCA, is amended to read:

28 **"2-15-3404. Fish, wildlife, and parks crimestoppers board.** (1) There is a fish, wildlife, and parks
29 crimestoppers board.

30 (2) (a) The board consists of five members, four of whom are appointed by the director of the department

of fish, wildlife, and parks; as follows:

(i) a person within the department responsible for the enforcement of fish and wildlife laws;

(ii) a member of a hunter's, angler's, or conservation group;

(iii) a member who is actively engaged in agricultural production; and

(iv) a member of the public with an interest in parks and recreation.

(b) The fifth member is a member of the fish, ~~and~~ wildlife, ~~and~~ parks commission who must be designated by the commission.

(3) The board shall elect a presiding officer from its members.

(4) A member must be appointed for a term of 2 years and may be reappointed.

(5) (a) A vacancy must be filled within 14 days of occurrence in the same manner as the original appointment.

(b) A vacancy does not impair the right of the remaining members to exercise the powers of the board.

(6) The board is allocated to the department of fish, wildlife, and parks for administrative purposes only as provided in 2-15-121."

Section 8. Section 23-1-101, MCA, is amended to read:

"23-1-101. ~~Purpose~~ Purposes -- definitions. (1) For the ~~purpose~~ purposes of conserving the scenic, historic, archaeologic, scientific, and recreational resources of the state, ~~and~~ providing for their use and enjoyment, ~~thereby~~ and contributing to the cultural, recreational, and economic life of the people and their health, the department of fish, wildlife, and parks (hereinafter referred to as department) ~~is~~ and board are hereby vested with the duties and powers ~~hereinafter~~ set forth in this part.

(2) For the purposes of this part, the following definitions apply:

(a) "Board" means the state parks and recreation board established in [section 1].

(b) "Commission" means the fish and wildlife commission established in 2-15-3402.

(c) "Department" means the department of fish, wildlife, and parks established in 2-15-3401.

(d) "Director" means the director of fish, wildlife, and parks as provided in 2-15-3401."

Section 9. Section 23-1-102, MCA, is amended to read:

"23-1-102. Powers and duties of department of fish, wildlife, and parks. (1) The department shall make a study to determine the scenic, historic, archaeologic, scientific, and recreational resources of the state.

~~The~~ With the consent of the board, the ~~THE~~ department may:

(a) by purchase, lease, agreement, or acceptance of donations acquire for the state any areas, sites, or objects that in its opinion should be held, improved, and maintained as state parks, state recreational areas, state monuments, or state ~~historical~~ historic sites; ~~The department, with the consent of the commission, may~~

(b) WITH THE CONSENT OF THE BOARD, acquire by condemnation, pursuant to Title 70, chapter 30, lands or structures for the purposes provided in 87-1-209(2);

~~(2)(c) The department may~~ accept in the name of the state, in fee or otherwise, any areas, sites, or objects conveyed, entrusted, donated, or devised to the state; and

(d) lease those portions of designated lands that are necessary for the proper administration of the lands in keeping with the basic purposes of this part.

(2) ~~¶~~ The department may accept gifts, grants, bequests, or contributions of money or other property to be spent or used for any of the purposes of this part.

(3) A contract, for any of the purposes of this part, may not be entered into or another obligation incurred until money has been appropriated by the legislature or is otherwise available. If the contract or obligation pertains to acquisition of areas or sites in excess of either 100 acres or \$100,000 in value, the board of land commissioners shall specifically approve the acquisition.

(4) The department has jurisdiction, custody, and control of all state parks, recreational areas, public camping grounds, ~~historical~~ historic sites, and monuments, except wayside camps and other public conveniences acquired, improved, and maintained by the department of transportation and contiguous to the state highway system. The department may designate lands under its control as state parks, state ~~historical~~ historic sites, or state monuments; or by any other designation that it considers appropriate. The department may remove or change the designation of any area or portion of an area and may name or change the name of any area. ~~The department may lease those portions of designated lands that are necessary for the proper administration of the lands in keeping with the basic purpose of this part."~~

Section 10. Section 23-1-106, MCA, is amended to read:

"23-1-106. Rules -- penalties -- enforcement. (1) The department and the board may make rules governing the use, occupancy, and protection of the property under ~~its~~ their control.

(2) ~~Any~~ A person who violates ~~any of the rules made by the department this section~~ SUBSECTION (3) or a rule established pursuant to subsection (1) this section is guilty of a misdemeanor and shall be fined not more

1 than \$500 or be imprisoned in the county jail for not more than 6 months.

2 ~~(3) It is unlawful and a misdemeanor punishable as provided in subsection (2) to~~ A person may not
3 refuse to exhibit for inspection any park permit, proof of age, or proof of residency upon request by a fish and
4 game warden, park ranger, or peace officer.

5 (4) The department shall enforce the provisions of this chapter and rules implementing this chapter. The
6 director ~~of the department~~ shall employ all necessary and qualified personnel for enforcement purposes.

7 (5) The department is a criminal justice agency for the purpose of obtaining the technical assistance and
8 support services provided by the board of crime control under the provisions of 44-4-301. Authorized officers of
9 the department are granted peace officer status with the power:

10 (a) of search, seizure, and arrest;

11 (b) to investigate activities in this state regulated by this chapter and rules of the department and the fish,
12 ~~wildlife, and parks commission board~~; and

13 (c) to report violations to the county attorney of the county in which they occur."
14

15 **Section 11.** Section 23-1-108, MCA, is amended to read:

16 **"23-1-108. Acquisition of certain state parks, monuments, or ~~historical~~ historic sites.** (1) Any
17 person, association, or representative of a governing unit may submit a proposal for the acquisition of a site or
18 area described in 23-1-102 from the income of the trust fund created in 15-35-108 to the department ~~of fish,~~
19 ~~wildlife, and parks~~ by July 1 of the year preceding the convening of a legislative session.

20 (2) The ~~fish, wildlife, and parks commission board~~ shall present to the legislature by the 15th day of any
21 legislative session a list of areas, sites, or objects that were proposed for purchase for use as state parks, state
22 recreational areas, state monuments, or state ~~historical~~ historic sites with the money contained in the parks
23 account.

24 (3) The legislature must appropriate funds from this account before any park, area, monument, or site
25 may be purchased."
26

27 **Section 12.** Section 23-1-110, MCA, is amended to read:

28 **"23-1-110. Improvement or development of state park or fishing access site -- required public**
29 **involvement -- rules.** (1) ~~The fish, wildlife, and parks commission shall adopt rules establishing a policy~~
30 ~~whereby any~~ Any proposed improvement or development of a state park or fishing access site that significantly

changes park or fishing access site features or use patterns is subject to notice of proposed modifications, both statewide and locally, and to opportunity for a public meeting and public comment on the advisability and acceptability of the proposal. Rules to govern the notice, meeting, and comment process must be adopted:

(a) for state parks by the board; and

(b) for fishing access sites by the commission.

(2) The department shall prepare a public report regarding any project that is subject to the provisions of subsection (1). The report must include conclusions relating to the following aspects of the proposal:

(a) the desires of the public as expressed to the department;

(b) the capacity of the park or fishing access site for development;

(c) environmental impacts associated with the improvement or development;

(d) the long-range maintenance of the improvements;

(e) the protection of natural, cultural, and historical park or fishing access site features;

(f) potential impacts on tourism; and

(g) site-specific modifications as they relate to the park or fishing access site system as a whole."

Section 13. Section 23-1-121, MCA, is amended to read:

"23-1-121. Park rangers -- qualifications -- powers and duties. (1) The department is authorized to establish a corps of park rangers and to select and appoint park rangers who must be qualified by their experience, training, skill, and interest in the protection, conservation, and stewardship of the natural and cultural resources and parks administered by the department.

(2) Park rangers shall:

(a) enforce the laws of this state and the rules of the department and the ~~fish, wildlife, and parks commission board~~ that provide for the protection, conservation, and stewardship of the natural and cultural resources in the state parks system;

~~(3) Park rangers shall~~

(b) protect campers, picnickers, and other park users;

(c) keep the peace;

(d) supervise public use; ~~and~~

(e) maintain public order in all units of the state parks system; and

~~(4)(f) Park rangers shall~~ perform all other duties prescribed by the department."

1

2 **Section 14.** Section 23-1-122, MCA, is amended to read:

3 **"23-1-122. Enforcement powers of park rangers and game wardens.** (1) Park rangers appointed
4 pursuant to 23-1-121 and fish and game wardens appointed pursuant to 87-1-501 are authorized officers with
5 the authority to enforce the laws and adopted rules relating to parks and outdoor recreation contained in chapters
6 1 and 2 of this title, except chapter 2, part 7.

7 (2) An authorized officer may:

8 (a) arrest, in accordance with Title 46, chapter 6, any person within an area managed by the department
9 upon probable cause to believe that the person has committed an offense against chapters 1 and 2 of this title,
10 except chapter 2, part 7, or rules of the department, the board, or the ~~fish, wildlife, and parks~~ commission;

11 (b) enforce the disorderly conduct and public nuisance laws under 45-8-101 and 45-8-111 as they apply
12 to the operation of motorboats on waters within areas managed by the department under this part; and

13 (c) exercise other powers of peace officers in the enforcement of:

14 (i) laws relating to parks and outdoor recreation contained in chapters 1 and 2 of this title, except chapter
15 2, part 7;

16 (ii) rules of the department, the board, and the ~~fish, wildlife, and parks~~ commission; and

17 (iii) judgments obtained for violations of the laws and rules specified in this subsection (2)(c)."

18

19 **Section 15.** Section 23-2-301, MCA, is amended to read:

20 **"23-2-301. Definitions.** For purposes of this part, the following definitions apply:

21 (1) "Barrier" means an artificial obstruction located in or over a water body, restricting passage on or
22 through the water, that totally or effectively obstructs the recreational use of the surface water at the time of use.
23 A barrier may include but is not limited to a bridge or fence or any other artificial obstacle to the natural flow of
24 water.

25 (2) "Class I waters" means surface waters, other than lakes, that:

26 (a) lie within the officially recorded federal government survey meander lines of the waters;

27 (b) flow over lands that have been judicially determined to be owned by the state by reason of application
28 of the federal navigability test for state streambed ownership;

29 (c) are or have been capable of supporting the following commercial activities: log floating, transportation
30 of furs and skins, shipping, commercial guiding using multiperson watercraft, public transportation, or the

1 transportation of merchandise, as these activities have been defined by published judicial opinion as of April 19,
2 1985; or

3 (d) are or have been capable of supporting commercial activity within the meaning of the federal
4 navigability test for state streambed ownership.

5 (3) "Class II waters" means all surface waters that are not class I waters, except lakes.

6 (4) "Commission" means the fish, ~~and wildlife, and parks~~ commission provided for in 2-15-3402.

7 (5) "Department" means the department of fish, wildlife, and parks provided for in 2-15-3401.

8 (6) "Diverted away from a natural water body" means a diversion of surface water through a constructed
9 water conveyance system, including but not limited to:

10 (a) an irrigation or drainage canal or ditch;

11 (b) an industrial, municipal, or domestic water system, excluding the lake, stream, or reservoir from which
12 the system obtains water;

13 (c) a flood control channel; or

14 (d) a hydropower inlet and discharge facility.

15 (7) "Lake" means a body of water where the surface water is retained by either natural or artificial means
16 and the natural flow of water is substantially impeded.

17 (8) "Occupied dwelling" means a building used for a human dwelling at least once a year.

18 (9) "Ordinary high-water mark" means the line that water impresses on land by covering it for sufficient
19 periods to cause physical characteristics that distinguish the area below the line from the area above it.
20 Characteristics of the area below the line include, when appropriate, but are not limited to deprivation of the soil
21 of substantially all terrestrial vegetation and destruction of its agricultural vegetative value. A flood plain adjacent
22 to surface waters is not considered to lie within the surface waters' high-water marks.

23 (10) "Recreational use" means with respect to surface waters: fishing, hunting, swimming, floating in small
24 craft or other flotation devices, boating in motorized craft unless otherwise prohibited or regulated by law, or craft
25 propelled by oar or paddle, other water-related pleasure activities, and related unavoidable or incidental uses.

26 (11) "Supervisors" means the board of supervisors of a soil conservation district, the directors of a grazing
27 district, or the board of county commissioners if a request pursuant to 23-2-311(3)(b) is not within the boundaries
28 of a conservation district or if the request is refused by the board of supervisors of a soil conservation district or
29 the directors of a grazing district.

30 (12) "Surface water" means, for the purpose of determining the public's access for recreational use, a

1 natural water body, its bed, and its banks up to the ordinary high-water mark."

2

3 **Section 16.** Section 23-2-403, MCA, is amended to read:

4 **"23-2-403. Definitions.** As used in this part, the following definitions apply:

5 (1) "Board" means the state parks and recreation board established in [section 1].

6 ~~(1)(2)~~ "Commission" means the fish, and wildlife, and parks commission provided for established in
7 2-15-3402.

8 ~~(2)(3)~~ "Department" means the department of fish, wildlife, and parks provided for in 2-15-3401."

9

10 **Section 17.** Section 23-2-404, MCA, is amended to read:

11 **"23-2-404. Applicability.** This part applies to that portion of the Smith River waterway located in
12 Meagher and Cascade Counties lying between the Camp Baker ~~state fishing access site~~ in Meagher County and
13 the confluence of the Smith River with the Missouri River. This description does not prevent the department from
14 naming or renaming areas pursuant to 23-1-102."

15

16 **Section 18.** Section 23-2-408, MCA, is amended to read:

17 **"23-2-408. Rulemaking authority.** The ~~commission~~ board has authority to provide for the administration
18 of the Smith River waterway. The ~~commission~~ board may adopt rules to:

19 (1) regulate and allocate recreational and commercial floating and camping to preserve the biological
20 and social benefits of recreational and commercial use of the Smith River waterway in its natural state.
21 Recreational use may be restricted to preserve the experience of floating, fishing, and camping in a natural
22 environment and to protect the river's fish, wildlife, water, and canyon resources. The restrictions must:

23 (a) consider the tolerance of adjacent landowners to recreational use;

24 (b) consider the capability of the river and adjoining lands to accommodate floating and camping use;

25 and

26 (c) ensure an acceptable level of user satisfaction, including minimizing user conflicts and providing for
27 a level of solitude.

28 (2) restrict recreational use, if necessary, through the implementation of a permit system. An allocation
29 of a portion of the permits may be made to licensed outfitters to preserve the availability of outfitting services to
30 the public.

(3) regulate the activities of recreational and commercial users of the water and land in the Smith River waterway that are legally accessible to the public and regulate the land in the river corridor that is under the control of the department and ~~commission~~ the board:

(a) for the purposes of safety, health, and protection of property;

(b) to preserve the experience of floating, fishing, and camping in a natural environment;

(c) to protect the river's fish, wildlife, water, and canyon resources; and

(d) to minimize conflicts between recreationists and private landowners; and

(4) establish recreational and commercial user fees for floating and camping on the Smith River waterway."

Section 19. Section 23-2-410, MCA, is amended to read:

"23-2-410. Penalty -- enforcement. (1) A person who violates a rule of the ~~commission~~ board adopted pursuant to this part is guilty of a misdemeanor punishable by a fine of not less than \$50 or more than \$500; or by imprisonment in a county jail for not more than 6 months, ~~or by both fine and imprisonment.~~

(2) The department is a criminal justice agency for the purpose of obtaining the technical assistance and support services provided by the board of crime control under the provisions of 44-4-301. Authorized officers of the department are granted peace officer status with the power:

(a) of search, seizure, and arrest;

(b) to investigate activities in this state regulated by this part and rules of the department, the board, and the commission; and

(c) to report violations to the county attorney of the county in which they occur."

~~**Section 20.** Section 23-2-501, MCA, is amended to read:~~

~~**"23-2-501. Declaration of policy.** It is the policy of this state to promote safety for persons and property in and connected with the use, operation, and equipment of vessels and to promote uniformity of laws relating thereto. For the purposes of this part:~~

~~(1) the board has jurisdiction over all waters immediately adjacent to lands administered pursuant to Title 23, chapter 1, and all waters administered pursuant to Title 23, chapter 2, part 4; and~~

~~(2) the commission has jurisdiction over all waters that are not immediately adjacent to lands administered pursuant to Title 23, chapter 1, and all waters not administered pursuant to Title 23, chapter 2, part~~

1 ~~4.~~"

2
3 ~~Section 21.~~ Section 23-2-502, MCA, is amended to read:

4 ~~"23-2-502. Definitions.~~ As used in this part, unless the context clearly requires a different meaning, the
5 following definitions apply:

6 ~~(1) "Board" means the state parks and recreation board established in [section 1].~~

7 ~~(1)(2) "Certificate of number" means the certificate issued by the department of justice, an authorized~~
8 ~~agent, as defined in 61-1-101, or a county treasurer to the owner of a motorboat or sailboat, assigning the~~
9 ~~motorboat or sailboat an identifying number and containing other information as required by the department of~~
10 ~~justice.~~

11 ~~(3) "Commission" means the fish and wildlife commission established in 2-15-3402.~~

12 ~~(2)(4) "Department" means the department of fish, wildlife, and parks of the state of Montana established~~
13 ~~in 2-15-3401.~~

14 ~~(3)(5) "Documented vessel" means a vessel that has and is required to have a valid marine document~~
15 ~~as a vessel of the United States.~~

16 ~~(4)(6) "Identifying number" means the boat number set forth in the certificate of number and properly~~
17 ~~displayed on the motorboat or sailboat.~~

18 ~~(5)(7) "Lienholder" means a person holding a security interest.~~

19 ~~(6)(8) "Manufacturer" means a person engaged in the business of manufacturing or importing new and~~
20 ~~unused vessels or new and unused outboard motors for the purpose of sale or trade.~~

21 ~~(7)(9) (a) "Motorboat" means a vessel, including a personal watercraft or pontoon, propelled by any~~
22 ~~machinery, motor, or engine of any description, whether or not the machinery, motor, or engine is the principal~~
23 ~~source of propulsion. The term includes boats temporarily equipped with detachable motors or engines.~~

24 ~~(b) The term does not include a vessel that has a valid marine document issued by the U.S. coast guard~~
25 ~~or any successor federal agency.~~

26 ~~(8)(10) "Operate" means to navigate or otherwise use a motorboat or a vessel.~~

27 ~~(9)(11) "Operator" means the person who navigates, drives, or is otherwise in immediate control of a~~
28 ~~motorboat or vessel.~~

29 ~~(10)(12) (a) "Owner" means a person, other than a lienholder, having the property in or title to a~~
30 ~~motorboat or vessel. The term includes a person entitled to the use or possession of a motorboat or vessel~~

subject to an interest in another person, reserved or created by an agreement securing payment or performance of an obligation.

~~_____ (b) The term does not include a lessee under a lease not intended as security.~~

~~_____ (11)(13) "Passenger" means each person carried on board a vessel other than:~~

~~_____ (a) the owner or the owner's representative;~~

~~_____ (b) the operator;~~

~~_____ (c) bona fide members of the crew engaged in the business of the vessel who have not contributed any consideration for their carriage and who are paid for their services; or~~

~~_____ (d) a guest on board a vessel that is being used exclusively for pleasure purposes who has not contributed any consideration, directly or indirectly, for the guest's carriage.~~

~~_____ (12)(14) "Person" means an individual, partnership, firm, corporation, association, or other entity.~~

~~_____ (13)(15) "Personal watercraft" means a vessel that uses an outboard motor or an inboard engine powering a water jet pump as its primary source of propulsion and that is designed to be operated by a person sitting, standing, or kneeling on the vessel rather than by the conventional method of sitting or standing in the vessel.~~

~~_____ (14)(16) "Registration decal" means an adhesive sticker produced by the department of justice and issued by the department of justice, an authorized agent as defined in 61-1-101, or a county treasurer to the owner of a motorboat, sailboat, or personal watercraft as proof of payment of fees imposed on the motorboat, sailboat, or personal watercraft for the registration period indicated on the decal as recorded by the department of justice under 61-3-101.~~

~~_____ (15)(17) (a) "Sailboat" means a vessel that uses a sail and wind as its primary source of propulsion.~~

~~_____ (b) The term does not include a canoe or kayak propelled by wind.~~

~~_____ (16)(18) "Security interest" means an interest that is reserved or created by an agreement that secures payment or performance of an obligation and is valid against third parties generally.~~

~~_____ (17)(19) "Uniform state waterway marking system" means one of two categories:~~

~~_____ (a) a system of aids to navigation to supplement the federal system of marking in state waters;~~

~~_____ (b) a system of regulatory markers to warn a vessel operator of dangers or to provide general information and directions.~~

~~_____ (18)(20) "Validation decal" means an adhesive sticker produced by the department and issued by the department or a county treasurer to the owner of a motorboat, sailboat, or personal watercraft verifying the~~

identifying number assigned to the motorboat, sailboat, or personal watercraft and the name and address of the owner to meet requirements of the federal standard numbering system.

~~(19)(21) "Vessel" means every description of watercraft, unless otherwise defined by the department, other than a seaplane on the water, used or capable of being used as a means of transportation on water.~~

~~(20)(22) "Waters of this state" means any waters within the territorial limits of this state."~~

~~**Section 22.** Section 23-2-506, MCA, is amended to read:~~

~~**"23-2-506. Enforcement.** (1) The department is a criminal justice agency for the purpose of obtaining the technical assistance and support services provided by the board of crime control under the provisions of 44-4-301. Authorized officers of the department are granted peace officer status with the power:~~

~~(a) of search, seizure, and arrest;~~

~~(b) to investigate activities in this state regulated by this part and rules of the department, the board, and the fish, wildlife, and parks commission; and~~

~~(c) to report violations to the county attorney of the county in which they occur.~~

~~(2) All sheriffs and peace officers of the state of Montana and all United States coast guard law enforcement officers shall have authority to enforce provisions of this part, as amended."~~

~~**Section 23.** Section 23-2-525, MCA, is amended to read:~~

~~**"23-2-525. Restricted areas.** (1) A person may not anchor a vessel or other obstacle for fishing or pleasure purposes on any body of water over which the state has jurisdiction in a position that obstructs a passageway ordinarily used by other vessels.~~

~~(2) A person may not operate a pleasure vessel within 20 feet of the exterior boundary of a water area that is clearly marked by buoys or some other distinguishing device as a bathing or swimming area. Swimming areas must be marked with white buoys having international orange markings in conformance with the uniform state waterway marking system by the owners of the areas.~~

~~(3) A person may not operate a vessel within 75 feet of a person engaged in fishing or hunting waterfowl, unless unavoidable. If unavoidable, the vessel must be operated at not greater than no-wake speed or at a minimum speed necessary to maintain upstream progress while within 75 feet of the person engaged in fishing or hunting waterfowl.~~

~~(4) (a) A person may not purposely, knowingly, or negligently operate a motorboat upon the waters of~~

1 this state within 200 feet of a tow float or buoy displaying a "diver down" symbol, red with a white slash, on a flag.

2 ~~—— (b) The motorboat may enter the 200-foot safety zone by use of sail or oar. In an emergency or if there~~
3 ~~is insufficient water on either side of the 200-foot safety zone to pass by and stay out of the zone, the operator~~
4 ~~may use power within the zone but may not exceed no-wake speed. The burden of proving that an emergency~~
5 ~~exists or that there is insufficient water is on the operator.~~

6 ~~—— (c) The fish, wildlife, and parks commission or the board may by rule determine areas where~~
7 ~~establishment of a 200-foot safety zone is not allowed in order to provide for diver safety or the regulation of water~~
8 ~~traffic."~~

9
10 ~~—— **Section 24.** Section 23-2-529, MCA, is amended to read:~~

11 ~~—— **"23-2-529. Waterskis and surfboards.** (1) A person may not operate a motorboat or vessel on any~~
12 ~~waters of this state for the purpose of towing a person or persons on waterskis, a surfboard, or similar device~~
13 ~~unless the operator is accompanied by an observer. If the operator is 12 years of age or younger, there must be~~
14 ~~a second person, at least 18 years of age, in the vessel to observe the person being towed. The fish, wildlife, and~~
15 ~~parks commission and the board shall adopt rules regarding the proper observation and safe towing of persons~~
16 ~~on waterskis or similar devices, based on density of use of a body of water.~~

17 ~~—— (2) A person may not operate a motorboat or vessel towing a person engaged in waterskiing,~~
18 ~~surfboarding, or similar activity or towing some other contrivances nor may a person engage in those activities~~
19 ~~at any time between the hours from sunset to sunrise, except that this subsection does not apply to a performer~~
20 ~~engaged in a professional exhibition or a person engaged in a regatta or race authorized under this part.~~

21 ~~—— (3) All right-of-way rules applying to a towing vessel apply to a person being towed."~~

22
23 ~~—— **Section 25.** Section 23-2-531, MCA, is amended to read:~~

24 ~~—— **"23-2-531. Personal watercraft operation.** In addition to applicable provisions in this part, a person may~~
25 ~~not operate a personal watercraft:~~

26 ~~—— (1) unless a person operating or riding on the vessel is wearing a United States coast guard approved~~
27 ~~type I, II, III, or V personal flotation device;~~

28 ~~—— (2) if the vessel is equipped by the manufacturer with a lanyard type engine cutoff switch unless the~~
29 ~~lanyard is attached to the operator's person, clothing, or personal flotation device as is appropriate for the specific~~
30 ~~vessel;~~

~~———— (3) (a) except as provided for standup personal watercraft in subsection (3)(b) or when towing a waterskier from or to a dock or shore, at greater than no-wake speed within 200 feet of a dock, swimmer, swimming raft, nonmotorized boat, or anchored vessel on a lake or river;~~

~~———— (b) at greater than the minimum speed necessary to operate a personal watercraft when leaving or returning directly from or to a dock or shore for the purpose of launching or docking; or~~

~~———— (4) on any surface waters restricted in whole or in part by rule of the fish, wildlife, and parks commission or the board;~~

~~———— (5) in a reckless or negligent manner. Actions prohibited in 23-2-523 are considered reckless operation."~~

~~———— **Section 26.** Section 23-2-601, MCA, is amended to read:~~

~~———— **"23-2-601. Definition of terms Definitions.** As used in 23-2-601, 23-2-602, 23-2-611, 23-2-614 through 23-2-618 23-2-617, 23-2-621, 23-2-622, 23-2-631 through 23-2-635, and 23-2-641 through 23-2-644, unless the context requires otherwise, the following definitions apply:~~

~~———— (1) "Board" means the state parks and recreation board established in [section 1].~~

~~———— (1)(2) "Certificate of registration" means the owner's receipt evidencing payment of fees due in order for the snowmobile to be validly registered.~~

~~———— (2)(3) "Certificate of title" means the document issued by the department of justice as prima facie evidence of ownership.~~

~~———— (4) "Commission" means the fish and wildlife commission established in 2-15-3402.~~

~~———— (3)(5) "dbA" means sound pressure level measured on the "A" weight scale in decibels.~~

~~———— (4)(6) "Department" means the department of fish, wildlife, and parks of the state of Montana established in 2-15-3401.~~

~~———— (5)(7) "New snowmobile" means a snowmobile that has not been previously sold to an owner.~~

~~———— (6)(8) "Operator" includes each person who operates or is in actual physical control of the operation of a snowmobile.~~

~~———— (7)(9) "Owner" includes each person, other than a lienholder or person having a security interest in a snowmobile, that holds a certificate of title to a snowmobile and is entitled to the use or possession of the snowmobile.~~

~~———— (8)(10) "Person" means an individual, partnership, association, corporation, and any other body or group of persons, regardless of the degree of formal organization.~~

1 ~~——— (9)(11) "Registration decal" means an adhesive sticker produced and issued by the department of justice,~~
2 ~~its authorized agent, or a county treasurer to the owner of a snowmobile as proof of payment of all fees imposed~~
3 ~~for the registration period indicated on the sticker as recorded by the department of justice under 61-3-101.~~

4 ~~——— (10)(12) "Roadway" means only those portions of a highway, road, or street improved, designed, or~~
5 ~~ordinarily used for travel or parking of motor vehicles.~~

6 ~~——— (11)(13) "Snowmobile" means a self-propelled vehicle of an overall width of 48 inches or less, excluding~~
7 ~~accessories, designed primarily for travel on snow or ice, that may be steered by skis or runners and that is not~~
8 ~~otherwise registered or licensed under the laws of the state of Montana."~~

9
10 ~~——— **Section 27.** Section 23-2-641, MCA, is amended to read:~~

11 ~~——— **"23-2-641. Enforcement.** (1) With respect to the sale of any new snowmobile that is subject to the~~
12 ~~provisions of 23-2-601, 23-2-602, 23-2-611, 23-2-614 through 23-2-618 23-2-617, 23-2-621, 23-2-622, 23-2-631~~
13 ~~through 23-2-635, and 23-2-641 through 23-2-644, the attorney general shall, upon the request of the department,~~
14 ~~sue for the recovery of the penalties provided in 23-2-642 and bring an action for a restraining order or temporary~~
15 ~~or permanent injunction against a person who sells or offers to sell a new snowmobile that does not satisfy the~~
16 ~~sound level limitations imposed by 23-2-601, 23-2-602, 23-2-611, 23-2-614 through 23-2-618 23-2-617, 23-2-621,~~
17 ~~23-2-622, 23-2-631 through 23-2-635, and 23-2-641 through 23-2-644.~~

18 ~~——— (2) (a) The department is a criminal justice agency for the purpose of obtaining the technical assistance~~
19 ~~and support services provided by the board of crime control under the provisions of 44-4-301. Authorized officers~~
20 ~~of the department are granted peace officer status with the power:~~

21 ~~——— (i) of search, seizure, and arrest;~~

22 ~~——— (ii) to investigate activities in this state regulated by this part and rules of the department, the board, and~~
23 ~~the fish, wildlife, and parks commission; and~~

24 ~~——— (iii) to report violations to the county attorney of the county in which they occur.~~

25 ~~——— (b) Sheriffs and their deputies of the various counties of the state, the Montana highway patrol,~~
26 ~~authorized officers of the department, and the police of each municipality shall enforce the provisions of this part."~~

27
28 ~~——— **Section 28.** Section 23-2-652, MCA, is amended to read:~~

29 ~~——— **"23-2-652. Definitions.** As used in 23-2-651 through 23-2-655, the following definitions apply:~~

30 ~~——— (1) "Snowmobile" means a vehicle defined in 23-2-601(11).~~

1 ~~——— (2) "Snowmobile area" means those areas designated as snowmobile trails or areas open to the~~
2 ~~operation of snowmobiles.~~

3 ~~——— (3) "Snowmobile area operators" means those persons responsible for the maintenance of snowmobile~~
4 ~~trails and for the designation of open areas or those persons providing rental snowmobile equipment. Operators~~
5 ~~may include but are not limited to the United States forest service, the Montana department of fish, wildlife, and~~
6 ~~parks, the Montana snowmobile association, individual snowmobile clubs, landowners or their tenants, persons~~
7 ~~who offer snowmobile equipment for rent, and private trail grooming contractors.~~

8 ~~——— (4) "Snowmobiler" means any person operating or riding a snowmobile."~~

10 ~~——— **Section 29.** Section 23-2-801, MCA, is amended to read:~~

11 ~~——— **"23-2-801. Definition Definitions.** (1) As used in this part, the following definitions apply:~~

12 ~~——— (1) "Board" means the state parks and recreation board established in [section 1].~~

13 ~~——— (2) "Commission" means the fish and wildlife commission established in 2-15-3402.~~

14 ~~——— (3) (a) "off-highway "Off-highway vehicle" means a self-propelled vehicle used for recreation or~~
15 ~~cross-country travel on public lands, trails, easements, lakes, rivers, or streams. The term includes but is not~~
16 ~~limited to motorcycles, quadricycles, dune buggies, amphibious vehicles, air cushion vehicles, and any other~~
17 ~~means of land transportation deriving motive power from any source other than muscle or wind.~~

18 ~~——— (2) Off-highway vehicle (b) The term does not include:~~

19 ~~——— (a)(i) vehicles designed primarily for travel on, over, or in the water;~~

20 ~~——— (b)(iii) snowmobiles; or~~

21 ~~——— (c)(iii) except as provided in 23-2-804, vehicles otherwise issued a certificate of title and registered under~~
22 ~~the laws of the state, unless the vehicle is used for off-road recreation on public lands."~~

24 ~~——— **Section 30.** Section 23-2-806, MCA, is amended to read:~~

25 ~~——— **"23-2-806. Enforcement.** (1) The department of fish, wildlife, and parks enforcement personnel, park~~
26 ~~rangers, sheriffs and their deputies, the Montana highway patrol, and the police of each municipality shall enforce~~
27 ~~the provisions of this part.~~

28 ~~——— (2) The department is a criminal justice agency for the purpose of obtaining the technical assistance and~~
29 ~~support services provided by the board of crime control under the provisions of 44-4-301. Authorized officers of~~
30 ~~the department are granted peace officer status with the power:~~

1 ~~—— (a) of search, seizure, and arrest;~~
2 ~~—— (b) to investigate activities in this state regulated by this part and rules of the department, the board, and~~
3 ~~the fish, wildlife, and parks commission; and~~
4 ~~—— (c) to report violations to the county attorney of the county in which they occur.~~
5 ~~—— (3) Park rangers may not carry firearms in the execution of their duties."~~

7 **Section 20.** Section 37-47-310, MCA, is amended to read:

8 **"37-47-310. Transfer or amendment of outfitter's license -- transfer of river-use days to new owner**
9 **of fishing outfitter business.** (1) An outfitter's license may not be transferred.

10 (2) An individual person may, upon proper showing, have that person's outfitter's license amended to
11 indicate that the license is being held for the use and benefit of a named proprietorship, partnership, or
12 corporation.

13 (3) Subject to approval by the board, a person designated by the family of an outfitter who is deceased
14 or incapacitated due to physical or mental disease or injury or who is unable to carry out the responsibilities of
15 an outfitter due to the outfitter's status as an active member of the military may continue to provide outfitting
16 services for the outfitter's unexpired license year, or until the family sells the outfitting business, until the designee
17 obtains an outfitter license.

18 (4) (a) When a fishing outfitter's business is sold or transferred in its entirety, any river-use days that
19 have been allocated to that fishing outfitter through the fishing outfitter's historic use of or activities on
20 restricted-use streams are transferable to the new owner of the fishing outfitter's business. Upon the sale or
21 transfer of a fishing outfitter's business, the outfitter who sells or transfers the business shall notify the new owner
22 that the use of any transferred river-use days is subject to change pursuant to rules adopted by the fish, and
23 ~~wildlife, and parks~~ commission and that a property right does not attach to the transferred river-use days.

24 (b) Any transferred river-use days on the Smith River are subject to change pursuant to rules adopted
25 by the state parks and recreation board pursuant to 23-2-408."

27 **Section 21.** Section 75-1-220, MCA, is amended to read:

28 **"75-1-220. Definitions.** For the purposes of this part, the following definitions apply:

29 (1) "Alternatives analysis" means an evaluation of different parameters, mitigation measures, or control
30 measures that would accomplish the same objectives as those included in the proposed action by the applicant.

1 For a project that is not a state-sponsored project, it does not include an alternative facility or an alternative to
2 the proposed project itself. The term includes alternatives required pursuant to Title 75, chapter 20.

3 (2) "Appropriate board" means, for administrative actions taken under this part by the:

4 (a) department of environmental quality, the board of environmental review, as provided for in 2-15-3502;

5 (b) department of fish, wildlife, and parks, the fish, ~~and wildlife, and parks~~ commission, as provided for
6 in 2-15-3402, and the state parks and recreation board, as provided for in [section 1];

7 (c) department of transportation, the transportation commission, as provided for in 2-15-2502;

8 (d) department of natural resources and conservation for state trust land issues, the board of land
9 commissioners, as provided for in Article X, section 4, of the Montana constitution;

10 (e) department of natural resources and conservation for oil and gas issues, the board of oil and gas
11 conservation, as provided for in 2-15-3303; and

12 (f) department of livestock, the board of livestock, as provided for in 2-15-3102.

13 (3) "Complete application" means, for the purpose of complying with this part, an application for a permit,
14 license, or other authorization that contains all data, studies, plans, information, forms, fees, and signatures
15 required to be included with the application sufficient for the agency to approve the application under the
16 applicable statutes and rules.

17 (4) "Cumulative impacts" means the collective impacts on the human environment within the borders of
18 Montana of the proposed action when considered in conjunction with other past, present, and future actions
19 related to the proposed action by location or generic type.

20 (5) "Environmental review" means any environmental assessment, environmental impact statement, or
21 other written analysis required under this part by a state agency of a proposed action to determine, examine, or
22 document the effects and impacts of the proposed action on the quality of the human and physical environment
23 within the borders of Montana as required under this part.

24 (6) "Project sponsor" means any applicant, owner, operator, agency, or other entity that is proposing an
25 action that requires an environmental review. If the action involves state agency-initiated actions on state trust
26 lands, the term also includes each institutional beneficiary of any trust as described in The Enabling Act of
27 Congress (approved February 22, 1899, 25 Stat. 676), as amended, the Morrill Act of 1862 (7 U.S.C. 301 through
28 308), and the Morrill Act of 1890 (7 U.S.C. 321 through 329).

29 (7) "Public scoping process" means any process to determine the scope of an environmental review.

30 (8) (a) "State-sponsored project" means:

1 (i) a project, program, or activity initiated and directly undertaken by a state agency;

2 (ii) except as provided in subsection (8)(b)(i), a project or activity supported through a contract, grant,
3 subsidy, loan, or other form of funding assistance from a state agency, either singly or in combination with one
4 or more other state agencies; or

5 (iii) except as provided in subsection (8)(b)(i), a project or activity authorized by a state agency acting in
6 a land management capacity for a lease, easement, license, or other authorization to act.

7 (b) The term does not include:

8 (i) a project or activity undertaken by a private entity that is made possible by the issuance of permits,
9 licenses, leases, easements, grants, loans, or other authorizations to act by the:

10 (A) department of environmental quality pursuant to Titles 75, 76, or 82;

11 (B) department of fish, wildlife, and parks pursuant to Title 87, chapter 4, part 4;

12 (C) board of oil and gas conservation pursuant to Title 82, chapter 11; or

13 (D) department of natural resources and conservation or the board of land commissioners pursuant to
14 Titles 76, 77, 82, and 85; or

15 (ii) a project or activity involving the issuance of a permit, license, certificate, or other entitlement for
16 permission to act by another agency acting in a regulatory capacity, either singly or in combination with other
17 state agencies."

18
19 **Section 22.** Section 77-1-405, MCA, is amended to read:

20 **"77-1-405. Island parks established -- development limited.** (1) In order to retain the integrity of the
21 recreational experience associated with Montana's river and lake islands, development of undisputed state-owned
22 or state-leased island property, which is hereby designated as island parks, including islands designated as state
23 property under 70-18-203, lying within and surrounded by a navigable river, stream, or lake is limited, after April
24 30, 1997, to:

25 (a) the installation of minimal signage indicating that the island is a designated island park in which
26 development has been limited and encouraging the public to help in maintaining the island park's primitive
27 character by picking out trash;

28 (b) necessary latrine facilities if approved by the ~~fish, wildlife, and parks commission~~ state parks and
29 recreation board established in [section 1];

30 (c) footings or pilings necessary for the construction of a bridge; and

(d) oil and gas leasing.

(2) Improvements made to and agricultural operations on state-owned or state-leased island property prior to April 30, 1997, may be maintained or continued, but further development is limited as provided in this section.

(3) Notwithstanding the provisions of 77-1-203 regarding multiple-use management, the legislature finds that the highest and best use of island property administered as school trust land, except islands designated as natural areas pursuant to Title 76, chapter 12, is for recreation and grazing and that those islands should be left in as primitive state as possible to protect from the loss of potential future revenue that could result from the failure to leave the islands in an undeveloped condition.

(4) For purposes of this section, state ownership or state lease of island property is disputed if the dispute arises before, on, or after April 30, 1997."

Section 23. Section 85-2-102, MCA, is amended to read:

"85-2-102. Definitions. Unless the context requires otherwise, in this chapter, the following definitions apply:

(1) "Appropriate" means:

(a) to divert, impound, or withdraw, including by stock for stock water, a quantity of water for a beneficial use;

(b) in the case of a public agency, to reserve water in accordance with 85-2-316;

(c) in the case of the department of fish, wildlife, and parks, to change an appropriation right to instream flow to protect, maintain, or enhance streamflows to benefit the fishery resource in accordance with 85-2-436;

(d) in the case of the United States department of agriculture, forest service:

(i) instream flows and in situ use of water created in 85-20-1401, Article V; or

(ii) to change an appropriation right to divert or withdraw water under subsection (1)(a) to instream flow to protect, maintain, or enhance streamflows in accordance with 85-2-320;

(e) temporary changes or leases for instream flow to maintain or enhance instream flow to benefit the fishery resource in accordance with 85-2-408;

(f) a use of water for aquifer recharge or mitigation; or

(g) a use of water for an aquifer storage and recovery project as provided in 85-2-368.

(2) "Aquifer recharge" means either the controlled subsurface addition of water directly to the aquifer or

1 controlled application of water to the ground surface for the purpose of replenishing the aquifer to offset adverse
2 effects resulting from net depletion of surface water.

3 (3) "Aquifer storage and recovery project" means a project involving the use of an aquifer to temporarily
4 store water through various means, including but not limited to injection, surface spreading and infiltration, drain
5 fields, or another department-approved method. The stored water may be either pumped from the injection well
6 or other wells for beneficial use or allowed to naturally drain away for a beneficial use.

7 (4) "Beneficial use", unless otherwise provided, means:

8 (a) a use of water for the benefit of the appropriator, other persons, or the public, including but not limited
9 to agricultural, stock water, domestic, fish and wildlife, industrial, irrigation, mining, municipal, power, and
10 recreational uses;

11 (b) a use of water appropriated by the department for the state water leasing program under 85-2-141
12 and of water leased under a valid lease issued by the department under 85-2-141;

13 (c) a use of water by the department of fish, wildlife, and parks through a change in an appropriation right
14 for instream flow to protect, maintain, or enhance streamflows to benefit the fishery resource authorized under
15 85-2-436;

16 (d) a use of water through a temporary change in appropriation right or lease to enhance instream flow
17 to benefit the fishery resource in accordance with 85-2-408;

18 (e) a use of water for aquifer recharge or mitigation; or

19 (f) a use of water for an aquifer storage and recovery project as provided in 85-2-368.

20 (5) "Certificate" means a certificate of water right issued by the department.

21 (6) "Change in appropriation right" means a change in the place of diversion, the place of use, the
22 purpose of use, or the place of storage.

23 (7) "Commission" means the fish, and wildlife, ~~and parks~~ commission provided for in 2-15-3402.

24 (8) "Correct and complete" means that the information required to be submitted conforms to the standard
25 of substantial credible information and that all of the necessary parts of the form requiring the information have
26 been filled in with the required information for the department to begin evaluating the information.

27 (9) "Declaration" means the declaration of an existing right filed with the department under section 8,
28 Chapter 452, Laws of 1973.

29 (10) "Department" means the department of natural resources and conservation provided for in Title 2,
30 chapter 15, part 33.

(11) "Developed spring" means any artificial opening or excavation in the ground, however made, including any physical alteration at the point of discharge regardless of whether it results in any increase in the yield of ground water, from which ground water is sought or can be obtained or through which it flows under natural pressures or is artificially withdrawn.

(12) "Existing right" or "existing water right" means a right to the use of water that would be protected under the law as it existed prior to July 1, 1973. The term includes federal non-Indian and Indian reserved water rights created under federal law and water rights created under state law.

(13) "Ground water" means any water that is beneath the ground surface.

(14) "Late claim" means a claim to an existing right forfeited pursuant to the conclusive presumption of abandonment under 85-2-226.

(15) "Mitigation" means the reallocation of surface water or ground water through a change in appropriation right or other means that does not result in surface water being introduced into an aquifer through aquifer recharge to offset adverse effects resulting from net depletion of surface water.

(16) "Municipality" means an incorporated city or town organized and incorporated under Title 7, chapter 2.

(17) "Permit" means the permit to appropriate issued by the department under 85-2-301 through 85-2-303 and 85-2-306 through 85-2-314.

(18) "Person" means an individual, association, partnership, corporation, state agency, political subdivision, the United States or any agency of the United States, or any other entity.

(19) (a) "Political subdivision" means any county, incorporated city or town, public corporation, or district created pursuant to state law or other public body of the state empowered to appropriate water.

(b) The term does not mean a private corporation, association, or group.

(20) "Salvage" means to make water available for beneficial use from an existing valid appropriation through application of water-saving methods.

(21) "State water reservation" means a water right created under state law after July 1, 1973, that reserves water for existing or future beneficial uses or that maintains a minimum flow, level, or quality of water throughout the year or at periods or for defined lengths of time.

(22) "Substantial credible information" means probable, believable facts sufficient to support a reasonable legal theory upon which the department should proceed with the action requested by the person providing the information.

(23) "Waste" means the unreasonable loss of water through the design or negligent operation of an appropriation or water distribution facility or the application of water to anything but a beneficial use.

(24) "Water" means all water of the state, surface and subsurface, regardless of its character or manner of occurrence, including but not limited to geothermal water, diffuse surface water, and sewage effluent.

(25) "Water division" means a drainage basin as defined in 3-7-102.

(26) "Water judge" means a judge as provided for in Title 3, chapter 7.

(27) "Water master" means a master as provided for in Title 3, chapter 7.

(28) "Watercourse" means any naturally occurring stream or river from which water is diverted for beneficial uses. It does not include ditches, culverts, or other constructed waterways.

(29) "Well" means any artificial opening or excavation in the ground, however made, by which ground water is sought or can be obtained or through which it flows under natural pressures or is artificially withdrawn."

Section 24. Section 87-1-101, MCA, is amended to read:

"87-1-101. Definitions. Unless the context requires otherwise, in this title the following definitions apply:

(1) "Board" means the state parks and recreation board provided for in [section 1].

~~(1)(2)~~ (2) "Commission" means the fish, ~~and~~ wildlife, ~~and parks~~ commission provided for in 2-15-3402.

~~(2)(3)~~ (3) "Department" means the department of fish, wildlife, and parks provided for in Title 2, chapter 15, part 34.

~~(3)(4)~~ (4) "Director" means the director of fish, wildlife, and parks provided for in 2-15-3401.

~~(4)(5)~~ (5) "Warden" means a state fish and game warden."

Section 25. Section 87-1-106, MCA, is amended to read:

"87-1-106. Fish, wildlife, and parks offices. The principal offices of the commission, the board, and the department ~~shall~~ must be located in or near Helena, and suitable and adequate space therefor together with janitor services, light, heat, and water ~~shall~~ must be furnished by the state of Montana."

Section 26. Section 87-1-202, MCA, is amended to read:

"87-1-202. Publication of orders and rules. (1) Except as provided in subsection (2), annual and biennial rules adopted by the commission ~~or the board~~ setting seasonal hunting, fishing, trapping, and land use regulations OR BY THE BOARD SETTING SEASONAL LAND USE REGULATIONS must be published in a pamphlet format

1 that is made available to the public at all department offices and through all license providers.

2 (2) Site-specific land use regulations applicable to a particular fishing access site, wildlife management
3 area, park site, or other department land, including but not limited to speed limits, road and off-road restrictions
4 or closures, places where camping is allowed or prohibited, and seasonal closures for management purposes,
5 must be indicated to the public by signs on the premises of the particular fishing access site, wildlife management
6 area, park site, or other department land.

7 (3) (a) Commission orders setting management seasons, providing for game damage hunts, and closing
8 special seasons pursuant to 87-1-304 may be published by:

9 (i) use of the department's website;

10 (ii) use of a telephone hotline number; or

11 (iii) any other method that is readily available to the public.

12 (b) The method for notifying the public of the closure of a special season must be stated in the rule that
13 establishes the special season.

14 (4) Public notification of emergency closures of department lands, public waterways, and hunting, fishing,
15 and trapping seasons that are based on public health, safety, and welfare must be made in the manner and to
16 the extent that the department considers necessary in light of the facts surrounding the emergency, including,
17 when practical, onsite posting of the emergency closure."
18

19 **Section 27.** Section 87-1-209, MCA, is amended to read:

20 **"87-1-209. (Temporary) Acquisition and sale of land or water.** (1) Subject to 87-1-218 AND
21 SUBSECTION (8) OF THIS SECTION, the department, with the consent of the commission or the board and, in the case
22 of land acquisition involving more than 100 acres or \$100,000 in value, the approval of the board of land
23 commissioners, may acquire by purchase, lease, agreement, gift, or devise and may acquire easements upon
24 land or water for the purposes listed in this subsection. Any acquisition of land or water rights for purposes of this
25 subsection, except that portion of acquisitions made with funds provided under 87-1-242(1), must include an
26 additional 20% above the purchase price to be used for maintenance of land or water acquired by the department.
27 The additional amount above the purchase price or \$300,000, whichever is less, must be deposited in the account
28 established in 87-1-230. As used in this subsection, "maintenance" means that term as defined in and consistent
29 with the good neighbor policy in 23-1-127(2). The department may develop, operate, and maintain acquired land
30 or water rights:

- 1 (a) for fish hatcheries or nursery ponds;
- 2 (b) as land or water suitable for game, bird, fish, or fur-bearing animal restoration, propagation, or
- 3 protection;
- 4 (c) for public hunting, fishing, or trapping areas;
- 5 (d) to capture, propagate, transport, buy, sell, or exchange any game, birds, fish, fish eggs, or fur-bearing
- 6 animals needed for propagation or stocking purposes or to exercise control measures of undesirable species;
- 7 (e) for state parks and outdoor recreation;
- 8 (f) to extend and consolidate by exchange, land or water rights suitable for these purposes.

9 (2) The department, with the consent of the ~~commission~~ board, may acquire by condemnation, as

10 provided in Title 70, chapter 30, land or structures for the preservation of ~~historical~~ historic or archaeological sites

11 that are threatened with destruction or alteration.

12 (3) (a) Subject to section 2(3), Chapter 560, Laws of 2005, the department, with the consent of the

13 commission or the board, may dispose of land and water rights acquired by it on those terms after public notice

14 as required by subsection (3)(b) of this section, without regard to other laws that provide for sale or disposal of

15 state land and with or without reservation, as it considers necessary and advisable. The department, with the

16 consent of the commission or the board, may convey department land and water rights for full market value to

17 other governmental entities or to adjacent landowners without regard to the requirements of subsection (3)(b) or

18 (3)(c) if the land is less than 10 acres or if the full market value of the interest to be conveyed is less than \$20,000.

19 When the department conveys land or water rights to another governmental entity or to an adjacent landowner

20 pursuant to this subsection, the department, in addition to giving notice pursuant to subsection (3)(b), shall give

21 notice by mail to the landowners whose property adjoins the department property being conveyed.

22 (b) Subject to section 2(3), Chapter 560, Laws of 2005, notice of sale describing the land or water rights

23 to be disposed of must be published once a week for 3 successive weeks in a newspaper with general circulation

24 printed and published in the county where the land or water right is situated or, if a newspaper is not published

25 in that county, then in any newspaper with general circulation in that county.

26 (c) The notice must advertise for cash bids to be presented to the director within 60 days from the date

27 of the first publication. Each bid must be accompanied by a cashier's check or cash deposit in an amount equal

28 to 10% of the amount bid. The highest bid must be accepted upon payment of the balance due within 10 days

29 after mailing notice by certified mail to the highest bidder. If that bidder defaults on payment of the balance due,

30 then the next highest bidders must be similarly notified in succession until a sale is completed. Deposits must be

1 returned to the unsuccessful bidders except bidders defaulting after notification.

2 (d) The department shall reserve the right to reject any bids that do not equal or exceed the full market
3 value of the land or water right as determined by the department. If the department does not receive a bid that
4 equals or exceeds fair market value, it may then sell the land or water rights at private sale. The price accepted
5 on any private sale must exceed the highest bid rejected in the bid process.

6 (4) When necessary and advisable for the management and use of department property, the director
7 is authorized to grant or acquire from willing sellers right-of-way easements for purposes of utilities, roads,
8 drainage facilities, ditches for water conveyance, and pipelines if the full market value of the interest to be
9 acquired is less than \$20,000. Whenever possible, easements must include a weed management plan. Approval
10 of the commission or the board is not required for grants and acquisitions made pursuant to this subsection. In
11 granting any right-of-way pursuant to this subsection, the department shall obtain a fair market value, but the
12 department is not otherwise required to follow the disposal requirements of subsection (3). The director shall
13 report any easement grant or acquisition made pursuant to this subsection to the commission or the board at its
14 next regular meeting.

15 (5) The department shall convey land and water rights without covenants of warranty by deed executed
16 by the governor or in the governor's absence or disability by the lieutenant governor, attested by the secretary
17 of state and further countersigned by the director.

18 (6) Subject to 87-1-218, the department, with the consent of the commission, is authorized to utilize the
19 installment contract method to facilitate the acquisition of wildlife management areas in which game and nongame
20 fur-bearing animals and game and nongame birds may breed and replenish and areas that provide access to
21 fishing sites for the public. The total cost of installment contracts may not exceed the cost of purchases authorized
22 by the department and appropriated by the legislature.

23 (7) The department is authorized to enter into leases of land under its control in exchange for services
24 to be provided by the lessee on the leased land.

25 (8) APPROVAL OF THE BOARD FOR THE ACQUISITION OR DISPOSAL OF LAND OR WATER PURSUANT TO THIS
26 SECTION IS REQUIRED ONLY FOR LAND AND WATER ADMINISTERED UNDER TITLE 23, CHAPTER 1, OR TITLE 23, CHAPTER
27 2, PARTS 1 AND 4. (Terminates June 30, 2013--sec. 8, Ch. 427, L. 2009.)

28 **87-1-209. (Effective July 1, 2013) Acquisition and sale of lands or waters.** (1) Subject to 87-1-218
29 AND SUBSECTION (8) OF THIS SECTION, the department, with the consent of the commission or the board and, in the
30 case of land acquisition involving more than 100 acres or \$100,000 in value, the approval of the board of land

commissioners, may acquire by purchase, lease, agreement, gift, or devise and may acquire easements upon lands or waters for the purposes listed in this subsection. The department may develop, operate, and maintain acquired lands or waters:

(a) for fish hatcheries or nursery ponds;

(b) as lands or water suitable for game, bird, fish, or fur-bearing animal restoration, propagation, or protection;

(c) for public hunting, fishing, or trapping areas;

(d) to capture, propagate, transport, buy, sell, or exchange any game, birds, fish, fish eggs, or fur-bearing animals needed for propagation or stocking purposes or to exercise control measures of undesirable species;

(e) for state parks and outdoor recreation;

(f) to extend and consolidate by exchange, lands or waters suitable for these purposes.

(2) The department, with the consent of the ~~commission board~~, may acquire by condemnation, as provided in Title 70, chapter 30, lands or structures for the preservation of ~~historical~~ historic or archaeological sites that are threatened with destruction or alteration.

(3) (a) Subject to section 2(3), Chapter 560, Laws of 2005, the department, with the consent of the ~~commission~~ or the board, may dispose of lands and water rights acquired by it on those terms after public notice as required by subsection (3)(b) of this section, without regard to other laws that provide for sale or disposal of state lands and with or without reservation, as it considers necessary and advisable. The department, with the consent of the ~~commission~~ or the board, may convey department lands and water rights for full market value to other governmental entities or to adjacent landowners without regard to the requirements of subsection (3)(b) or (3)(c) if the land is less than 10 acres or if the full market value of the interest to be conveyed is less than \$20,000. When the department conveys land or water rights to another governmental entity or to an adjacent landowner pursuant to this subsection, the department, in addition to giving notice pursuant to subsection (3)(b), shall give notice by mail to the landowners whose property adjoins the department property being conveyed.

(b) Subject to section 2(3), Chapter 560, Laws of 2005, notice of sale describing the lands or waters to be disposed of must be published once a week for 3 successive weeks in a newspaper with general circulation printed and published in the county where the lands or waters are situated or, if a newspaper is not published in that county, then in any newspaper with general circulation in that county.

(c) The notice must advertise for cash bids to be presented to the director within 60 days from the date of the first publication. Each bid must be accompanied by a cashier's check or cash deposit in an amount equal

1 to 10% of the amount bid. The highest bid must be accepted upon payment of the balance due within 10 days
2 after mailing notice by certified mail to the highest bidder. If that bidder defaults on payment of the balance due,
3 then the next highest bidders must be similarly notified in succession until a sale is completed. Deposits must be
4 returned to the unsuccessful bidders except bidders defaulting after notification.

5 (d) The department shall reserve the right to reject any bids that do not equal or exceed the full market
6 value of the lands and waters as determined by the department. If the department does not receive a bid that
7 equals or exceeds fair market value, it may then sell the lands or water rights at private sale. The price accepted
8 on any private sale must exceed the highest bid rejected in the bid process.

9 (4) When necessary and advisable for the management and use of department property, the director
10 is authorized to grant or acquire from willing sellers right-of-way easements for purposes of utilities, roads,
11 drainage facilities, ditches for water conveyance, and pipelines if the full market value of the interest to be
12 acquired is less than \$20,000. Whenever possible, easements must include a weed management plan. Approval
13 of the commission or the board is not required for grants and acquisitions made pursuant to this subsection. In
14 granting any right-of-way pursuant to this subsection, the department shall obtain a fair market value, but the
15 department is not otherwise required to follow the disposal requirements of subsection (3). The director shall
16 report any easement grant or acquisition made pursuant to this subsection to the commission or the board at its
17 next regular meeting.

18 (5) The department shall convey lands and water rights without covenants of warranty by deed executed
19 by the governor or in the governor's absence or disability by the lieutenant governor, attested by the secretary
20 of state and further countersigned by the director.

21 (6) Subject to 87-1-218, the department, with the consent of the commission, is authorized to utilize the
22 installment contract method to facilitate the acquisition of wildlife management areas in which game and nongame
23 fur-bearing animals and game and nongame birds may breed and replenish and areas that provide access to
24 fishing sites for the public. The total cost of installment contracts may not exceed the cost of purchases authorized
25 by the department and appropriated by the legislature.

26 (7) The department is authorized to enter into leases of land under its control in exchange for services
27 to be provided by the lessee on the leased land.

28 (8) APPROVAL OF THE BOARD FOR THE ACQUISITION OR DISPOSAL OF LAND OR WATER PURSUANT TO THIS
29 SECTION IS REQUIRED ONLY FOR LAND AND WATER ADMINISTERED UNDER TITLE 23, CHAPTER 1, OR TITLE 23, CHAPTER
30 2, PARTS 1 AND 4."

1

2 **Section 28.** Section 87-1-218, MCA, is amended to read:

3 **"87-1-218. Notice of proposed land acquisitions.** (1) For all land acquisitions proposed pursuant to
4 87-1-209, the department shall provide notice to the board of county commissioners in the county where the
5 proposed acquisition is located.

6 (2) The notice must be provided at least 30 days before the proposed acquisition appears before the
7 commission or the board for its consent.

8 (3) The notice must include:

9 (a) a description of the proposed acquisition, including acreage and the use proposed by the department;

10 (b) an estimate of the measures and costs the department plans to undertake in furtherance of the
11 proposed use, including operating, staffing, and maintenance costs;

12 (c) an estimate of the property taxes payable on the proposed acquisition and a statement that if the
13 department acquires the land pursuant to 87-1-603, the department would pay a sum equal to the amount of
14 taxes that would be payable on the county assessment of the property if it was taxable to a private citizen; and

15 (d) a draft agenda of the meeting at which the proposed acquisition will be presented to the commission
16 or the board and information on how the board of county commissioners may provide comment."

17

18 **Section 29.** Section 87-1-301, MCA, is amended to read:

19 **"87-1-301. Powers of commission.** (1) Except as provided in ~~subsection~~ subsections (7) and (8), the
20 commission:

21 (a) shall set the policies for the protection, preservation, management, and propagation of the wildlife,
22 fish, game, furbearers, waterfowl, nongame species, and endangered species of the state and for the fulfillment
23 of all other responsibilities of the department related to fish and wildlife as provided by law;

24 (b) shall establish the hunting, fishing, and trapping rules of the department;

25 (c) except as provided in [section 2], ~~23-2-501,~~ and 87-1-303(3), shall establish the rules of the
26 department governing the use of lands owned or controlled by the department and waters under the jurisdiction
27 of the department;

28 (d) must have the power within the department to establish wildlife refuges and bird and game preserves;

29 (e) shall approve all acquisitions or transfers by the department of interests in land or water, except as
30 provided in [section 2] and 87-1-209(4)(2) and (4);

(f) except as provided in [section 2], shall review and approve the budget of the department prior to its transmittal to the budget office of budget and program planning;

(g) except as provided in [section 2], shall review and approve construction projects that have an estimated cost of more than \$1,000 but less than \$5,000; and

(h) shall manage elk, deer, and antelope populations based on habitat estimates determined as provided in 87-1-322 and maintain elk, deer, and antelope population numbers at or below population estimates as provided in 87-1-323. In developing or implementing an elk management plan, the commission shall consider landowner tolerance when deciding whether to restrict elk hunting on surrounding public land in a particular hunting district. As used in this subsection (1)(h), "landowner tolerance" means the written or documented verbal opinion of an affected landowner regarding the impact upon the landowner's property within the particular hunting district where a restriction on elk hunting on public property is proposed.

(2) The commission may adopt rules regarding the use and type of archery equipment that may be employed for hunting and fishing purposes, taking into account applicable standards as technical innovations in archery equipment change.

(3) The commission may adopt rules regarding the establishment of special licenses or permits, seasons, conditions, programs, or other provisions that the commission considers appropriate to promote or enhance hunting by Montana's youth and persons with disabilities.

(4) (a) The commission may adopt rules regarding nonresident big game combination licenses to:

(i) separate deer licenses from nonresident elk combination licenses;

(ii) set the fees for the separated deer combination licenses and the elk combination licenses without the deer tag;

(iii) condition the use of the deer licenses; and

(iv) limit the number of licenses sold.

(b) The commission may exercise the rulemaking authority in subsection (4)(a) when it is necessary and appropriate to regulate the harvest by nonresident big game combination license holders:

(i) for the biologically sound management of big game populations of elk, deer, and antelope;

(ii) to control the impacts of those elk, deer, and antelope populations on uses of private property; and

(iii) to ensure that elk, deer, and antelope populations are at a sustainable level as provided in 87-1-321 through 87-1-325.

(5) (a) Subject to the provisions of 87-2-115, the commission may adopt rules establishing license

1 preference systems to distribute hunting licenses and permits:

2 (i) giving an applicant who has been unsuccessful for a longer period of time priority over an applicant
3 who has been unsuccessful for a shorter period of time; and

4 (ii) giving a qualifying landowner a preference in drawings. As used in this subsection (5)(a), "qualifying
5 landowner" means the owner of land that provides some significant habitat benefit for wildlife, as determined by
6 the commission.

7 (b) The commission shall square the number of points purchased by an applicant per species when
8 conducting drawings for licenses and permits.

9 (6) (a) The commission may adopt rules to:

10 (i) limit the number of nonresident mountain lion hunters in designated hunting districts; and

11 (ii) determine the conditions under which nonresidents may hunt mountain lion in designated hunting
12 districts.

13 (b) The commission shall consider, but is not limited to consideration of, the following factors:

14 (i) harvest of lions by resident and nonresident hunters;

15 (ii) history of quota overruns;

16 (iii) composition, including age and sex, of the lion harvest;

17 (iv) historical outfitter use;

18 (v) conflicts among hunter groups;

19 (vi) availability of public and private lands; and

20 (vii) whether restrictions on nonresident hunters are more appropriate than restrictions on all hunters.

21 (7) The commission may not regulate the use or possession of firearms, firearm accessories, or
22 ammunition, including the chemical elements of ammunition used for hunting. This does not prevent:

23 (a) the restriction of certain hunting seasons to the use of specified hunting arms, such as the
24 establishment of special archery seasons;

25 (b) for human safety, the restriction of certain areas to the use of only specified hunting arms, including
26 bows and arrows, traditional handguns, and muzzleloading rifles;

27 (c) the restriction of the use of shotguns for the hunting of deer and elk pursuant to 87-6-401(1)(f);

28 (d) the regulation of migratory game bird hunting pursuant to 87-3-403; or

29 (e) the restriction of the use of rifles for bird hunting pursuant to 87-6-401(1)(g) or (1)(h).

30 (8) Pursuant to [section 2], the commission does not oversee department activities related to the

administration of state parks, primitive parks, state recreational areas, public camping grounds, state historic sites, state monuments, and other heritage and recreational resources, land, and water administered pursuant to Title 23, chapter 1, and Title 23, chapter 2, parts 1, 4, 5, 6, 8, and 9."

Section 30. Section 87-1-303, MCA, is amended to read:

"87-1-303. Rules for use of lands and waters. (1) Except as provided in [section 2], 87-1-301(7), and subsection (3) of this section, the commission may adopt and enforce rules governing uses of lands that are acquired or held under easement by the commission or lands that it operates under agreement with or in conjunction with a federal or state agency or private owner. The rules must be adopted in the interest of public health, public safety, and protection of property in regulating the use of these lands. All lease and easement agreements must itemize uses as listed in 87-1-209.

(2) Except as provided in [section 2], 23-2-501, and 87-1-301(7), the commission may adopt and enforce rules governing recreational uses of all public fishing reservoirs, public lakes, rivers, and streams that are legally accessible to the public or on reservoirs and lakes that it operates under agreement with or in conjunction with a federal or state agency or private owner. These rules must be adopted in the interest of public health, public safety, public welfare, and protection of property and public resources in regulating swimming, hunting, fishing, trapping, boating, including but not limited to boating speed regulations, the operation of motor-driven boats, the operation of personal watercraft, the resolution of conflicts between users of motorized and nonmotorized boats, waterskiing, surfboarding, picnicking, camping, sanitation, and use of firearms on the reservoirs, lakes, rivers, and streams or at designated areas along the shore of the reservoirs, lakes, rivers, and streams. Areas regulated pursuant to the authority contained in this section must be areas that are legally accessible to the public. These rules are subject to review and approval by the department of public health and human services with regard to issues of public health and sanitation before becoming effective. Copies of the rules must show that endorsement.

(3) (a) The commission may not regulate or classify domestic livestock trailing as a commercial activity or commercial use that is subject to licensing, permitting, or fee requirements. Domestic livestock trailing on land owned or controlled by the department is exempt from the requirements of Title 75, chapter 1, parts 1 through 3.

(b) The commission may authorize domestic livestock trailing across land owned or controlled by the department that is designated as a wildlife management area. The commission may adopt rules governing the timing of and the route to be used for domestic livestock trailing activities to the extent that the rules are

1 necessary both to enable the trailing of domestic livestock across the designated wildlife management area and
2 to protect and enhance state lands. The rules may not:

3 (i) require a fee for domestic livestock trailing or related activities; or

4 (ii) prohibit or unreasonably interfere with domestic livestock trailing activities.

5 (4) For the purposes of this section, the following definitions apply:

6 (a) "Domestic livestock" means domestic animals kept for farm and ranch purposes, including but not
7 limited to horses, cattle, sheep, goats, and dogs.

8 (b) "Domestic livestock trailing" means the entering upon and crossing of department lands and the use
9 of the lands for forage by domestic livestock for a maximum of 96 consecutive hours."

10
11 ~~Section 42. Section 87-1-306, MCA, is amended to read:~~

12 ~~"87-1-306. Designation of certain river stretches as no-wake waters -- personal watercraft use~~
13 ~~prohibited. (1) In the interest of public health, safety, and welfare and protection of property and public~~
14 ~~resources, the use of personal watercraft is prohibited on the headwaters of the Missouri River downstream to~~
15 ~~its confluence with Prewett Creek, except in Missouri River reservoirs, and including all tributaries but not their~~
16 ~~reservoirs.~~

17 ~~(2) The waters from Hauser dam downstream to Beaver Creek are limited to a controlled no-wake speed.~~

18 ~~(3) This section does not apply to the use of the designated waters for search and rescue, official patrol,~~
19 ~~or scientific purposes.~~

20 ~~(4) This section may not be construed to limit the authority of the commission, the board, or the~~
21 ~~department to enact by administrative rule or to enforce any other restrictions on any surface waters in the~~
22 ~~interests of public health, safety, or welfare, the protection of property or public resources, or the resolution of~~
23 ~~conflicts between users of motorized and nonmotorized boats."~~

24
25 **Section 31.** Section 87-1-401, MCA, is amended to read:

26 **"87-1-401. Director to carry out policies.** The director shall carry out the policies of the commission
27 and the board and shall adopt rules authorized by law to implement those policies."

28
29 **Section 32.** Section 87-1-622, MCA, is amended to read:

30 **"87-1-622. Forest management plan -- sustainable yield study required -- definition.** (1) The

commission and the board shall adopt ~~a forest management plan~~ plans for lands under their jurisdiction, based on an annual sustainable yield, to implement the provisions of 87-1-201(9)(a)(iv).

(2) The department, under the direction of the commission, shall, before July 1, 2012, commission a study by a qualified independent third party to determine, using scientific principles, the annual sustainable yield on forested department lands. The department shall direct the qualified independent third party to determine the annual sustainable yield pursuant to all state and federal laws.

(3) The annual timber sale requirement for the timber sale program administered by the department to address fire mitigation, pine beetle infestation, and wildlife habitat enhancement may not exceed the annual sustainable yield.

(4) The commission and the board shall review and redetermine the annual sustainable yield for lands under their jurisdiction at least once every 5 years.

(5) Expenditures necessary to meet the requirements of this section are authorized to be made by the department pursuant to 87-1-601.

(6) For the purposes of this section, the term "annual sustainable yield" means the quantity of timber that can be harvested from forested department lands each year, taking into account the ability of forested lands to generate replacement tree growth and in accordance with:

(a) the provisions of 87-1-201(9)(a)(iv);

(b) state and federal laws, including but not limited to the laws pertaining to wildlife, recreation, and maintenance of watersheds; and

(c) water quality standards that protect fisheries and aquatic life and that are adopted under the provisions of Title 75, chapter 5."

Section 33. Section 87-4-432, MCA, is amended to read:

"87-4-432. Alternative livestock advisory council -- appointment of members -- duties. (1) There is an alternative livestock advisory council to advise the department on the administration of alternative livestock ranches in this state.

(2) The alternative livestock advisory council is composed of five members, appointed by the governor as follows:

(a) one member of the board of livestock or the department of livestock;

(b) one member of the fish, and wildlife, ~~and parks~~ commission or the department;

(c) one member who is a representative of the alternative livestock industry;

(d) one member who is a veterinarian licensed to practice veterinary medicine in this state; and

(e) one member who is a representative of the sportspersons of Montana.

(3) Members of the alternative livestock advisory council shall serve staggered 2-year terms. A member may serve one additional consecutive 2-year term.

(4) The alternative livestock advisory council is attached to the department and the department of livestock in an advisory capacity only, as defined in 2-15-102. The department and the department of livestock shall provide staff support and assistance necessary for the council to perform its functions."

NEW SECTION. Section 34. Name change -- directions to code commissioner. (1) Unless otherwise provided, wherever a reference to the fish, wildlife, and parks commission, meaning the commission established in 2-15-3402, appears in legislation enacted by the 2013 legislature that refers to functions of the commission related to fish and wildlife, the code commissioner is directed to change it to an appropriate reference to the fish and wildlife commission.

(2) Unless otherwise provided, wherever a reference to the fish, wildlife, and parks commission, meaning the commission established in 2-15-3402, appears in legislation enacted by the 2013 legislature that refers to functions of the commission related to state parks or recreational resources under Title 23, chapter 1, and Title 23, chapter 2, parts 1, 4, ~~5, 6, 8,~~ and 9, the code commissioner is directed to change it to an appropriate reference to the state parks and recreation board.

NEW SECTION. Section 35. Codification instruction. (1) [Section 1] is intended to be codified as an integral part of Title 2, chapter 15, part 34, and the provisions of Title 2, chapter 15, part 34, apply to [section 1].

(2) [Section 2] is intended to be codified as an integral part of Title 23, chapter 1, part 1, and the provisions of Title 23, chapter 1, part 1, apply to [section 2].

NEW SECTION. Section 36. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

NEW SECTION. Section 37. Effective date. [This act] is effective July 1, 2013.

- END -

HOUSE BILL NO. 24

INTRODUCED BY D. ANKNEY

BY REQUEST OF THE ENVIRONMENTAL QUALITY COUNCIL

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING THE STATE PARKS AND RECREATION BOARD; PROVIDING POWERS AND DUTIES; GRANTING RULEMAKING AUTHORITY; RENAMING THE FISH, WILDLIFE, AND PARKS COMMISSION; AMENDING SECTIONS 2-15-3110, 2-15-3113, 2-15-3401, 2-15-3402, 2-15-3404, 23-1-101, 23-1-102, 23-1-106, 23-1-108, 23-1-110, 23-1-121, 23-1-122, 23-2-301, 23-2-403, 23-2-404, 23-2-408, 23-2-410, ~~23-2-501, 23-2-502, 23-2-506, 23-2-525, 23-2-529, 23-2-531, 23-2-601, 23-2-641, 23-2-652, 23-2-801, 23-2-806,~~ 37-47-310, 75-1-220, 77-1-405, 85-2-102, 87-1-101, 87-1-106, 87-1-202, 87-1-209, 87-1-218, 87-1-301, 87-1-303, ~~87-1-306,~~ 87-1-401, 87-1-622, AND 87-4-432, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. State parks and recreation board -- composition. (1) There is a state parks and recreation board.

(2) The board consists of five members appointed by the governor, as prescribed in 2-15-124. The governor shall appoint one member from each of the following districts:

(a) District No. 1, consisting of Lincoln, Flathead, Sanders, Lake, Mineral, Missoula, Powell, Ravalli, Granite, and Lewis and Clark Counties;

(b) District No. 2, consisting of Deer Lodge, Silver Bow, Beaverhead, Madison, Jefferson, Broadwater, Gallatin, Park, and Sweet Grass Counties;

(c) District No. 3, consisting of Glacier, Toole, Liberty, Hill, Pondera, Teton, Chouteau, Cascade, Judith Basin, Fergus, Blaine, Meagher, and Wheatland Counties;

(d) District No. 4, consisting of Phillips, Valley, Daniels, Sheridan, Roosevelt, Petroleum, Garfield, McCone, Richland, Dawson, and Wibaux Counties;

(e) District No. 5, consisting of Golden Valley, Musselshell, Stillwater, Carbon, Yellowstone, Big Horn, Treasure, Rosebud, Custer, Powder River, Carter, Fallon, and Prairie Counties.

(3) Appointments must be made without regard to political affiliation and must be made solely for the

wise management of state parks and outdoor recreational resources administered pursuant to Title 23, chapter 1, and Title 23, chapter 2, parts 1, 4, ~~5, 6, 8,~~ and 9.

(4) A person appointed to the board must be informed or experienced in the conservation and protection of state parks, heritage resources, natural resources, tourism promotion and development, or outdoor recreation.

(5) A vacancy on the board must be filled by the governor in the same manner and from the district in which the vacancy occurs.

(6) The board is designated as a quasi-judicial board for purposes of 2-15-124, except that the requirement that at least one member be an attorney does not apply.

~~(7) The administrator of the division that oversees state parks is the secretary of the board.~~

NEW SECTION. Section 2. Powers and duties of board -- rulemaking -- meetings. (1) Except as provided in subsection (2), for state parks, primitive parks, state recreational areas, public camping grounds, state historic sites, state monuments, and other heritage and recreational resources, land, and water administered pursuant to Title 23, chapter 1, and Title 23, chapter 2, parts 1, 4, ~~5, 6, 8,~~ and 9, the board shall:

(a) set the policies and provide direction to the department for:

(i) the management, protection, conservation, and preservation of these properties, lands, and waters ~~in a way that promotes their importance~~ AND THEIR APPROPRIATE ROLE RELATIVE to tourism and the economic health of Montana;

(ii) coordinating, integrating, promoting, and furthering opportunities for education and recreation at these sites, including but not limited to camping, hiking, snowmobiling, off-highway vehicle use, horseback riding, mountain biking, ~~and boating,~~ AND SWIMMING;

(b) work with the commission to maintain hunting and angling opportunities on these lands and waters;

(c) establish the rules of the department governing the use of these properties; AND ~~lands, and waters.~~

The rules must be adopted in the interest of public health, public safety, PUBLIC WELFARE, and protection of property and public resources in regulating RECREATION, INCLUDING picnicking, camping, AND SWIMMING, AND ~~sanitation, swimming, and boating, including but not limited to boating speed regulations, the operation of motor-driven boats, the operation of personal watercraft, the resolution of conflicts between users of motorized and nonmotorized boats, waterskiing, and surfboarding.~~ These rules are subject to review and approval by the department of public health and human services with regard to issues of public health and sanitation before becoming effective. Copies of the rules must show that endorsement.

(d) review and approve all acquisitions or transfers of interest in these properties, lands, and waters by the department, EXCEPT AS PROVIDED IN 87-1-209(4);

(e) review and approve the budget of the department for the administration of these properties, lands, and waters prior to its transmittal to the office of budget and program planning;

(f) review and approve construction projects that have an estimated cost of more than ~~\$1,000 but less than~~ \$5,000;

(g) work with local, state, and federal agencies to evaluate, integrate, coordinate, and promote recreational opportunities statewide; and

(h) encourage citizen involvement in management planning for these properties, lands, and waters.

(2) Pursuant to 87-1-301(1), the board does not oversee department activities related to the administration of fishing access sites.

(3) The members of the board shall hold quarterly or other meetings for the transaction of business at times and places considered necessary and proper. The meetings must be called by the presiding officer or by a majority of the board and must be held at the time and place specified in the call for the meeting. A majority of the members constitutes a quorum for the transaction of any business. The board shall keep a record of all the business it transacts. The presiding officer and secretary shall sign all orders, minutes, or documents for the board.

Section 3. Section 2-15-3110, MCA, is amended to read:

"2-15-3110. Livestock loss board -- purpose, membership, and qualifications. (1) There is a livestock loss board. The purpose of the board is to administer the programs called for in the Montana gray wolf management plan and established in 2-15-3111 through 2-15-3113, with funds provided through the accounts established in 81-1-110, in order to minimize losses caused by wolves to livestock producers and to reimburse livestock producers for livestock losses from wolf predation.

(2) The board consists of seven members, appointed by the governor, as follows:

(a) three members from a list of names recommended by the board of livestock;

(b) three members from a list of names recommended by the fish, and wildlife, ~~and parks~~ commission; and

(c) one member of the general public.

(3) Each board member must have knowledge of or have experience in at least one of the following:

- 1 (a) the raising of livestock in Montana;
- 2 (b) livestock marketing, valuations, sales, or breeding associations;
- 3 (c) the interaction of wolves with livestock and livestock mortality caused by wolves;
- 4 (d) wildlife conservation;
- 5 (e) administration; and
- 6 (f) fundraising.

7 (4) The board is designated as a quasi-judicial board for the purposes of 2-15-124. Notwithstanding the
8 provisions of 2-15-124(1), the governor is not required to appoint an attorney to serve as a member of the board.

9 (5) The board is allocated to the department of livestock for administrative purposes only as provided
10 in 2-15-121.

11 (6) The board shall adopt rules to implement the provisions of 2-15-3110 through 2-15-3114 and
12 81-1-110 through 81-1-112."

13
14 **Section 4.** Section 2-15-3113, MCA, is amended to read:

15 **"2-15-3113. Additional powers and duties of livestock loss board.** (1) The livestock loss board shall:

- 16 (a) process claims;
- 17 (b) seek information necessary to ensure that claim documentation is complete;
- 18 (c) provide payments authorized by the board for confirmed and probable livestock losses, along with
19 a written explanation of payment;
- 20 (d) submit monthly and annual reports to the board of livestock summarizing claims and expenditures
21 and the results of action taken on claims and maintain files of all claims received, including supporting
22 documentation;
- 23 (e) provide information to the board of livestock regarding appealed claims and implement any decision
24 by the board;
- 25 (f) prepare the annual budget for the board; and
- 26 (g) provide proper documentation of staff time and expenditures.

27 (2) The livestock loss board may enter into an agreement with any Montana tribe, if the tribe has adopted
28 a wolf management plan for reservation lands that is consistent with the state wolf management plan, to provide
29 that tribal lands within reservation boundaries are eligible for mitigation grants pursuant to 2-15-3111 and that
30 livestock losses on tribal lands within reservation boundaries are eligible for reimbursement payments pursuant

1 to 2-15-3112.

2 (3) The livestock loss board shall:

3 (a) coordinate and share information with state, federal, and tribal officials, livestock producers,
4 nongovernmental organizations, and the general public in an effort to reduce livestock losses caused by wolves;

5 (b) establish an annual budget for the prevention, mitigation, and reimbursement of livestock losses
6 caused by wolves;

7 (c) perform or contract for the performance of periodic program audits and reviews of program
8 expenditures, including payments to individuals, incorporated entities, and producers who receive loss reduction
9 grants and reimbursement payments;

10 (d) adjudicate appeals of claims;

11 (e) investigate alternative or enhanced funding sources, including possible agreements with public
12 entities and private wildlife or livestock organizations that have active livestock loss reimbursement programs in
13 place;

14 (f) meet as necessary to conduct business; and

15 (g) report annually to the governor, the legislature, members of the Montana congressional delegation,
16 the board of livestock, the fish, and wildlife, ~~and parks~~ commission, and the public regarding results of the
17 programs established in 2-15-3111 through 2-15-3113.

18 (4) The livestock loss board may sell or auction any wolf carcasses or parts of wolf carcasses received
19 pursuant to 87-1-217. The proceeds, minus the costs of the sale including the preparation of the carcass or part
20 of the carcass for sale, must be deposited into the livestock loss reduction and mitigation special revenue account
21 established in 81-1-110(2)(a) and used for the purposes of 2-15-3111 through 2-15-3114."

22
23 **Section 5.** Section 2-15-3401, MCA, is amended to read:

24 **"2-15-3401. Department of fish, wildlife, and parks -- head.** There is a department of fish, wildlife, and
25 parks. The department head is the director of fish, wildlife, and parks appointed by the governor in accordance
26 with 2-15-111. The director is the secretary of the:

27 (1) fish and wildlife commission established in 2-15-3402; AND

28 (2) STATE PARKS AND RECREATION BOARD ESTABLISHED IN [SECTION 1]."

29
30 **Section 6.** Section 2-15-3402, MCA, is amended to read:

1 **"2-15-3402. Fish, and wildlife, ~~and parks~~ commission.** (1) There is a fish, and wildlife, ~~and parks~~
2 commission.

3 (2) The commission consists of five members. At least one member must be experienced in the breeding
4 and management of domestic livestock. The governor shall appoint one member from each of the following
5 districts:

6 (a) District No. 1, consisting of Lincoln, Flathead, Sanders, Lake, Mineral, Missoula, Powell, Ravalli,
7 Granite, and Lewis and Clark Counties;

8 (b) District No. 2, consisting of Deer Lodge, Silver Bow, Beaverhead, Madison, Jefferson, Broadwater,
9 Gallatin, Park, and Sweet Grass Counties;

10 (c) District No. 3, consisting of Glacier, Toole, Liberty, Hill, Pondera, Teton, Chouteau, Cascade, Judith
11 Basin, Fergus, Blaine, Meagher, and Wheatland Counties;

12 (d) District No. 4, consisting of Phillips, Valley, Daniels, Sheridan, Roosevelt, Petroleum, Garfield,
13 McCone, Richland, Dawson, and Wibaux Counties;

14 (e) District No. 5, consisting of Golden Valley, Musselshell, Stillwater, Carbon, Yellowstone, Big Horn,
15 Treasure, Rosebud, Custer, Powder River, Carter, Fallon, and Prairie Counties.

16 (3) Appointments must be made without regard to political affiliation and must be made solely for the
17 wise management of fish, wildlife, ~~and state parks~~ and ~~other outdoor~~ related recreational resources of this state.
18 A person may not be appointed to the commission unless the person is informed or interested and experienced
19 in the subject of fish, wildlife, ~~parks~~, and ~~outdoor~~ recreation and the requirements for the conservation and
20 protection of fish, wildlife, ~~parks~~, and ~~outdoor~~ recreational resources.

21 (4) A vacancy occurring on the commission must be filled by the governor in the same manner and from
22 the district in which the vacancy occurs.

23 (5) The fish, and wildlife, ~~and parks~~ commission is designated as a quasi-judicial board for purposes of
24 2-15-124. Notwithstanding the provisions of 2-15-124(1), the governor is not required to appoint an attorney to
25 serve as a member of the commission."
26

27 **Section 7.** Section 2-15-3404, MCA, is amended to read:

28 **"2-15-3404. Fish, wildlife, and parks crimestoppers board.** (1) There is a fish, wildlife, and parks
29 crimestoppers board.

30 (2) (a) The board consists of five members, four of whom are appointed by the director of the department

of fish, wildlife, and parks; as follows:

(i) a person within the department responsible for the enforcement of fish and wildlife laws;

(ii) a member of a hunter's, angler's, or conservation group;

(iii) a member who is actively engaged in agricultural production; and

(iv) a member of the public with an interest in parks and recreation.

(b) The fifth member is a member of the fish, ~~and~~ wildlife, ~~and~~ parks commission who must be designated by the commission.

(3) The board shall elect a presiding officer from its members.

(4) A member must be appointed for a term of 2 years and may be reappointed.

(5) (a) A vacancy must be filled within 14 days of occurrence in the same manner as the original appointment.

(b) A vacancy does not impair the right of the remaining members to exercise the powers of the board.

(6) The board is allocated to the department of fish, wildlife, and parks for administrative purposes only as provided in 2-15-121."

Section 8. Section 23-1-101, MCA, is amended to read:

"23-1-101. ~~Purpose~~ Purposes -- definitions. (1) For the ~~purpose~~ purposes of conserving the scenic, historic, archaeologic, scientific, and recreational resources of the state, ~~and~~ providing for their use and enjoyment, ~~thereby~~ and contributing to the cultural, recreational, and economic life of the people and their health, the department of fish, wildlife, and parks (hereinafter referred to as department) ~~is~~ and board are hereby vested with the duties and powers ~~hereinafter~~ in this part.

(2) For the purposes of this part, the following definitions apply:

(a) "Board" means the state parks and recreation board established in [section 1].

(b) "Commission" means the fish and wildlife commission established in 2-15-3402.

(c) "Department" means the department of fish, wildlife, and parks established in 2-15-3401.

(d) "Director" means the director of fish, wildlife, and parks as provided in 2-15-3401."

Section 9. Section 23-1-102, MCA, is amended to read:

"23-1-102. Powers and duties of department of fish, wildlife, and parks. (1) The department shall make a study to determine the scenic, historic, archaeologic, scientific, and recreational resources of the state.

~~The~~ With the consent of the board, the ~~THE~~ department may:

(a) by purchase, lease, agreement, or acceptance of donations acquire for the state any areas, sites, or objects that in its opinion should be held, improved, and maintained as state parks, state recreational areas, state monuments, or state ~~historical~~ historic sites; ~~The department, with the consent of the commission, may~~

(b) WITH THE CONSENT OF THE BOARD, acquire by condemnation, pursuant to Title 70, chapter 30, lands or structures for the purposes provided in 87-1-209(2);

~~(2)(c) The department may~~ accept in the name of the state, in fee or otherwise, any areas, sites, or objects conveyed, entrusted, donated, or devised to the state; and

(d) lease those portions of designated lands that are necessary for the proper administration of the lands in keeping with the basic purposes of this part.

(2) ~~¶~~ The department may accept gifts, grants, bequests, or contributions of money or other property to be spent or used for any of the purposes of this part.

(3) A contract, for any of the purposes of this part, may not be entered into or another obligation incurred until money has been appropriated by the legislature or is otherwise available. If the contract or obligation pertains to acquisition of areas or sites in excess of either 100 acres or \$100,000 in value, the board of land commissioners shall specifically approve the acquisition.

(4) The department has jurisdiction, custody, and control of all state parks, recreational areas, public camping grounds, ~~historical~~ historic sites, and monuments, except wayside camps and other public conveniences acquired, improved, and maintained by the department of transportation and contiguous to the state highway system. The department may designate lands under its control as state parks, state ~~historical~~ historic sites, or state monuments; or by any other designation that it considers appropriate. The department may remove or change the designation of any area or portion of an area and may name or change the name of any area. ~~The department may lease those portions of designated lands that are necessary for the proper administration of the lands in keeping with the basic purpose of this part."~~

Section 10. Section 23-1-106, MCA, is amended to read:

"23-1-106. Rules -- penalties -- enforcement. (1) The department and the board may make rules governing the use, occupancy, and protection of the property under ~~its~~ their control.

(2) ~~Any~~ A person who violates ~~any of the rules made by the department this section~~ SUBSECTION (3) or a rule established pursuant to subsection (1) this section is guilty of a misdemeanor and shall be fined not more

1 than \$500 or be imprisoned in the county jail for not more than 6 months.

2 ~~(3) It is unlawful and a misdemeanor punishable as provided in subsection (2) to~~ A person may not
3 refuse to exhibit for inspection any park permit, proof of age, or proof of residency upon request by a fish and
4 game warden, park ranger, or peace officer.

5 (4) The department shall enforce the provisions of this chapter and rules implementing this chapter. The
6 director of the department shall employ all necessary and qualified personnel for enforcement purposes.

7 (5) The department is a criminal justice agency for the purpose of obtaining the technical assistance and
8 support services provided by the board of crime control under the provisions of 44-4-301. Authorized officers of
9 the department are granted peace officer status with the power:

10 (a) of search, seizure, and arrest;

11 (b) to investigate activities in this state regulated by this chapter and rules of the department and the fish,
12 wildlife, and parks commission board; and

13 (c) to report violations to the county attorney of the county in which they occur."
14

15 **Section 11.** Section 23-1-108, MCA, is amended to read:

16 **"23-1-108. Acquisition of certain state parks, monuments, or ~~historical~~ historic sites.** (1) Any
17 person, association, or representative of a governing unit may submit a proposal for the acquisition of a site or
18 area described in 23-1-102 from the income of the trust fund created in 15-35-108 to the department of fish,
19 wildlife, and parks by July 1 of the year preceding the convening of a legislative session.

20 (2) The fish, wildlife, and parks commission board shall present to the legislature by the 15th day of any
21 legislative session a list of areas, sites, or objects that were proposed for purchase for use as state parks, state
22 recreational areas, state monuments, or state ~~historical~~ historic sites with the money contained in the parks
23 account.

24 (3) The legislature must appropriate funds from this account before any park, area, monument, or site
25 may be purchased."
26

27 **Section 12.** Section 23-1-110, MCA, is amended to read:

28 **"23-1-110. Improvement or development of state park or fishing access site -- required public**
29 **involvement -- rules.** (1) ~~The fish, wildlife, and parks commission shall adopt rules establishing a policy~~
30 ~~whereby any~~ Any proposed improvement or development of a state park or fishing access site that significantly

changes park or fishing access site features or use patterns is subject to notice of proposed modifications, both statewide and locally, and to opportunity for a public meeting and public comment on the advisability and acceptability of the proposal. Rules to govern the notice, meeting, and comment process must be adopted:

(a) for state parks by the board; and

(b) for fishing access sites by the commission.

(2) The department shall prepare a public report regarding any project that is subject to the provisions of subsection (1). The report must include conclusions relating to the following aspects of the proposal:

(a) the desires of the public as expressed to the department;

(b) the capacity of the park or fishing access site for development;

(c) environmental impacts associated with the improvement or development;

(d) the long-range maintenance of the improvements;

(e) the protection of natural, cultural, and historical park or fishing access site features;

(f) potential impacts on tourism; and

(g) site-specific modifications as they relate to the park or fishing access site system as a whole."

Section 13. Section 23-1-121, MCA, is amended to read:

"23-1-121. Park rangers -- qualifications -- powers and duties. (1) The department is authorized to establish a corps of park rangers and to select and appoint park rangers who must be qualified by their experience, training, skill, and interest in the protection, conservation, and stewardship of the natural and cultural resources and parks administered by the department.

(2) Park rangers shall:

(a) enforce the laws of this state and the rules of the department and the fish, wildlife, and parks commission board that provide for the protection, conservation, and stewardship of the natural and cultural resources in the state parks system;

~~(3) Park rangers shall~~

(b) protect campers, picnickers, and other park users;

(c) keep the peace;

(d) supervise public use; and

(e) maintain public order in all units of the state parks system; and

~~(4)(f) Park rangers shall perform all other duties prescribed by the department."~~

Section 14. Section 23-1-122, MCA, is amended to read:

"23-1-122. Enforcement powers of park rangers and game wardens. (1) Park rangers appointed pursuant to 23-1-121 and fish and game wardens appointed pursuant to 87-1-501 are authorized officers with the authority to enforce the laws and adopted rules relating to parks and outdoor recreation contained in chapters 1 and 2 of this title, except chapter 2, part 7.

(2) An authorized officer may:

(a) arrest, in accordance with Title 46, chapter 6, any person within an area managed by the department upon probable cause to believe that the person has committed an offense against chapters 1 and 2 of this title, except chapter 2, part 7, or rules of the department, the board, or the ~~fish, wildlife, and parks~~ commission;

(b) enforce the disorderly conduct and public nuisance laws under 45-8-101 and 45-8-111 as they apply to the operation of motorboats on waters within areas managed by the department under this part; and

(c) exercise other powers of peace officers in the enforcement of:

(i) laws relating to parks and outdoor recreation contained in chapters 1 and 2 of this title, except chapter 2, part 7;

(ii) rules of the department, the board, and the ~~fish, wildlife, and parks~~ commission; and

(iii) judgments obtained for violations of the laws and rules specified in this subsection (2)(c)."

Section 15. Section 23-2-301, MCA, is amended to read:

"23-2-301. Definitions. For purposes of this part, the following definitions apply:

(1) "Barrier" means an artificial obstruction located in or over a water body, restricting passage on or through the water, that totally or effectively obstructs the recreational use of the surface water at the time of use. A barrier may include but is not limited to a bridge or fence or any other artificial obstacle to the natural flow of water.

(2) "Class I waters" means surface waters, other than lakes, that:

(a) lie within the officially recorded federal government survey meander lines of the waters;

(b) flow over lands that have been judicially determined to be owned by the state by reason of application of the federal navigability test for state streambed ownership;

(c) are or have been capable of supporting the following commercial activities: log floating, transportation of furs and skins, shipping, commercial guiding using multiperson watercraft, public transportation, or the

1 transportation of merchandise, as these activities have been defined by published judicial opinion as of April 19,
2 1985; or

3 (d) are or have been capable of supporting commercial activity within the meaning of the federal
4 navigability test for state streambed ownership.

5 (3) "Class II waters" means all surface waters that are not class I waters, except lakes.

6 (4) "Commission" means the fish, ~~and wildlife, and parks~~ commission provided for in 2-15-3402.

7 (5) "Department" means the department of fish, wildlife, and parks provided for in 2-15-3401.

8 (6) "Diverted away from a natural water body" means a diversion of surface water through a constructed
9 water conveyance system, including but not limited to:

10 (a) an irrigation or drainage canal or ditch;

11 (b) an industrial, municipal, or domestic water system, excluding the lake, stream, or reservoir from which
12 the system obtains water;

13 (c) a flood control channel; or

14 (d) a hydropower inlet and discharge facility.

15 (7) "Lake" means a body of water where the surface water is retained by either natural or artificial means
16 and the natural flow of water is substantially impeded.

17 (8) "Occupied dwelling" means a building used for a human dwelling at least once a year.

18 (9) "Ordinary high-water mark" means the line that water impresses on land by covering it for sufficient
19 periods to cause physical characteristics that distinguish the area below the line from the area above it.
20 Characteristics of the area below the line include, when appropriate, but are not limited to deprivation of the soil
21 of substantially all terrestrial vegetation and destruction of its agricultural vegetative value. A flood plain adjacent
22 to surface waters is not considered to lie within the surface waters' high-water marks.

23 (10) "Recreational use" means with respect to surface waters: fishing, hunting, swimming, floating in small
24 craft or other flotation devices, boating in motorized craft unless otherwise prohibited or regulated by law, or craft
25 propelled by oar or paddle, other water-related pleasure activities, and related unavoidable or incidental uses.

26 (11) "Supervisors" means the board of supervisors of a soil conservation district, the directors of a grazing
27 district, or the board of county commissioners if a request pursuant to 23-2-311(3)(b) is not within the boundaries
28 of a conservation district or if the request is refused by the board of supervisors of a soil conservation district or
29 the directors of a grazing district.

30 (12) "Surface water" means, for the purpose of determining the public's access for recreational use, a

1 natural water body, its bed, and its banks up to the ordinary high-water mark."

2

3 **Section 16.** Section 23-2-403, MCA, is amended to read:

4 **"23-2-403. Definitions.** As used in this part, the following definitions apply:

5 (1) "Board" means the state parks and recreation board established in [section 1].

6 ~~(1)(2)~~ "Commission" means the fish, and wildlife, and parks commission provided for established in
7 2-15-3402.

8 ~~(2)(3)~~ "Department" means the department of fish, wildlife, and parks provided for in 2-15-3401."

9

10 **Section 17.** Section 23-2-404, MCA, is amended to read:

11 **"23-2-404. Applicability.** This part applies to that portion of the Smith River waterway located in
12 Meagher and Cascade Counties lying between the Camp Baker ~~state fishing access site~~ in Meagher County and
13 the confluence of the Smith River with the Missouri River. This description does not prevent the department from
14 naming or renaming areas pursuant to 23-1-102."

15

16 **Section 18.** Section 23-2-408, MCA, is amended to read:

17 **"23-2-408. Rulemaking authority.** The ~~commission~~ board has authority to provide for the administration
18 of the Smith River waterway. The ~~commission~~ board may adopt rules to:

19 (1) regulate and allocate recreational and commercial floating and camping to preserve the biological
20 and social benefits of recreational and commercial use of the Smith River waterway in its natural state.
21 Recreational use may be restricted to preserve the experience of floating, fishing, and camping in a natural
22 environment and to protect the river's fish, wildlife, water, and canyon resources. The restrictions must:

23 (a) consider the tolerance of adjacent landowners to recreational use;

24 (b) consider the capability of the river and adjoining lands to accommodate floating and camping use;

25 and

26 (c) ensure an acceptable level of user satisfaction, including minimizing user conflicts and providing for
27 a level of solitude.

28 (2) restrict recreational use, if necessary, through the implementation of a permit system. An allocation
29 of a portion of the permits may be made to licensed outfitters to preserve the availability of outfitting services to
30 the public.

(3) regulate the activities of recreational and commercial users of the water and land in the Smith River waterway that are legally accessible to the public and regulate the land in the river corridor that is under the control of the department and ~~commission~~ the board:

(a) for the purposes of safety, health, and protection of property;

(b) to preserve the experience of floating, fishing, and camping in a natural environment;

(c) to protect the river's fish, wildlife, water, and canyon resources; and

(d) to minimize conflicts between recreationists and private landowners; and

(4) establish recreational and commercial user fees for floating and camping on the Smith River waterway."

Section 19. Section 23-2-410, MCA, is amended to read:

"23-2-410. Penalty -- enforcement. (1) A person who violates a rule of the ~~commission~~ board adopted pursuant to this part is guilty of a misdemeanor punishable by a fine of not less than \$50 or more than \$500; or by imprisonment in a county jail for not more than 6 months, ~~or by both fine and imprisonment.~~

(2) The department is a criminal justice agency for the purpose of obtaining the technical assistance and support services provided by the board of crime control under the provisions of 44-4-301. Authorized officers of the department are granted peace officer status with the power:

(a) of search, seizure, and arrest;

(b) to investigate activities in this state regulated by this part and rules of the department, the board, and the commission; and

(c) to report violations to the county attorney of the county in which they occur."

~~**Section 20.** Section 23-2-501, MCA, is amended to read:~~

~~**"23-2-501. Declaration of policy.** It is the policy of this state to promote safety for persons and property in and connected with the use, operation, and equipment of vessels and to promote uniformity of laws relating thereto. For the purposes of this part:~~

~~(1) the board has jurisdiction over all waters immediately adjacent to lands administered pursuant to Title 23, chapter 1, and all waters administered pursuant to Title 23, chapter 2, part 4; and~~

~~(2) the commission has jurisdiction over all waters that are not immediately adjacent to lands administered pursuant to Title 23, chapter 1, and all waters not administered pursuant to Title 23, chapter 2, part~~

1 ~~4.~~"

2
3 ~~Section 21.~~ Section 23-2-502, MCA, is amended to read:

4 ~~"23-2-502. Definitions.~~ As used in this part, unless the context clearly requires a different meaning, the
5 following definitions apply:

6 ~~(1) "Board" means the state parks and recreation board established in [section 1].~~

7 ~~(1)(2) "Certificate of number" means the certificate issued by the department of justice, an authorized~~
8 ~~agent, as defined in 61-1-101, or a county treasurer to the owner of a motorboat or sailboat, assigning the~~
9 ~~motorboat or sailboat an identifying number and containing other information as required by the department of~~
10 ~~justice.~~

11 ~~(3) "Commission" means the fish and wildlife commission established in 2-15-3402.~~

12 ~~(2)(4) "Department" means the department of fish, wildlife, and parks of the state of Montana established~~
13 ~~in 2-15-3401.~~

14 ~~(3)(5) "Documented vessel" means a vessel that has and is required to have a valid marine document~~
15 ~~as a vessel of the United States.~~

16 ~~(4)(6) "Identifying number" means the boat number set forth in the certificate of number and properly~~
17 ~~displayed on the motorboat or sailboat.~~

18 ~~(5)(7) "Lienholder" means a person holding a security interest.~~

19 ~~(6)(8) "Manufacturer" means a person engaged in the business of manufacturing or importing new and~~
20 ~~unused vessels or new and unused outboard motors for the purpose of sale or trade.~~

21 ~~(7)(9) (a) "Motorboat" means a vessel, including a personal watercraft or pontoon, propelled by any~~
22 ~~machinery, motor, or engine of any description, whether or not the machinery, motor, or engine is the principal~~
23 ~~source of propulsion. The term includes boats temporarily equipped with detachable motors or engines.~~

24 ~~(b) The term does not include a vessel that has a valid marine document issued by the U.S. coast guard~~
25 ~~or any successor federal agency.~~

26 ~~(8)(10) "Operate" means to navigate or otherwise use a motorboat or a vessel.~~

27 ~~(9)(11) "Operator" means the person who navigates, drives, or is otherwise in immediate control of a~~
28 ~~motorboat or vessel.~~

29 ~~(10)(12) (a) "Owner" means a person, other than a lienholder, having the property in or title to a~~
30 ~~motorboat or vessel. The term includes a person entitled to the use or possession of a motorboat or vessel~~

1 subject to an interest in another person, reserved or created by an agreement securing payment or performance
2 of an obligation.

3 ~~—— (b) The term does not include a lessee under a lease not intended as security.~~

4 ~~—— (11)(13) "Passenger" means each person carried on board a vessel other than:~~

5 ~~—— (a) the owner or the owner's representative;~~

6 ~~—— (b) the operator;~~

7 ~~—— (c) bona fide members of the crew engaged in the business of the vessel who have not contributed any~~
8 ~~consideration for their carriage and who are paid for their services; or~~

9 ~~—— (d) a guest on board a vessel that is being used exclusively for pleasure purposes who has not~~
10 ~~contributed any consideration, directly or indirectly, for the guest's carriage.~~

11 ~~—— (12)(14) "Person" means an individual, partnership, firm, corporation, association, or other entity.~~

12 ~~—— (13)(15) "Personal watercraft" means a vessel that uses an outboard motor or an inboard engine~~
13 ~~powering a water jet pump as its primary source of propulsion and that is designed to be operated by a person~~
14 ~~sitting, standing, or kneeling on the vessel rather than by the conventional method of sitting or standing in the~~
15 ~~vessel.~~

16 ~~—— (14)(16) "Registration decal" means an adhesive sticker produced by the department of justice and~~
17 ~~issued by the department of justice, an authorized agent as defined in 61-1-101, or a county treasurer to the~~
18 ~~owner of a motorboat, sailboat, or personal watercraft as proof of payment of fees imposed on the motorboat,~~
19 ~~sailboat, or personal watercraft for the registration period indicated on the decal as recorded by the department~~
20 ~~of justice under 61-3-101.~~

21 ~~—— (15)(17) (a) "Sailboat" means a vessel that uses a sail and wind as its primary source of propulsion.~~

22 ~~—— (b) The term does not include a canoe or kayak propelled by wind.~~

23 ~~—— (16)(18) "Security interest" means an interest that is reserved or created by an agreement that secures~~
24 ~~payment or performance of an obligation and is valid against third parties generally.~~

25 ~~—— (17)(19) "Uniform state waterway marking system" means one of two categories:~~

26 ~~—— (a) a system of aids to navigation to supplement the federal system of marking in state waters;~~

27 ~~—— (b) a system of regulatory markers to warn a vessel operator of dangers or to provide general information~~
28 ~~and directions.~~

29 ~~—— (18)(20) "Validation decal" means an adhesive sticker produced by the department and issued by the~~
30 ~~department or a county treasurer to the owner of a motorboat, sailboat, or personal watercraft verifying the~~

identifying number assigned to the motorboat, sailboat, or personal watercraft and the name and address of the owner to meet requirements of the federal standard numbering system.

~~(19)(21) "Vessel" means every description of watercraft, unless otherwise defined by the department, other than a seaplane on the water, used or capable of being used as a means of transportation on water.~~

~~(20)(22) "Waters of this state" means any waters within the territorial limits of this state."~~

~~**Section 22.** Section 23-2-506, MCA, is amended to read:~~

~~**"23-2-506. Enforcement.** (1) The department is a criminal justice agency for the purpose of obtaining the technical assistance and support services provided by the board of crime control under the provisions of 44-4-301. Authorized officers of the department are granted peace officer status with the power:~~

~~(a) of search, seizure, and arrest;~~

~~(b) to investigate activities in this state regulated by this part and rules of the department, the board, and the fish, wildlife, and parks commission; and~~

~~(c) to report violations to the county attorney of the county in which they occur.~~

~~(2) All sheriffs and peace officers of the state of Montana and all United States coast guard law enforcement officers shall have authority to enforce provisions of this part, as amended."~~

~~**Section 23.** Section 23-2-525, MCA, is amended to read:~~

~~**"23-2-525. Restricted areas.** (1) A person may not anchor a vessel or other obstacle for fishing or pleasure purposes on any body of water over which the state has jurisdiction in a position that obstructs a passageway ordinarily used by other vessels.~~

~~(2) A person may not operate a pleasure vessel within 20 feet of the exterior boundary of a water area that is clearly marked by buoys or some other distinguishing device as a bathing or swimming area. Swimming areas must be marked with white buoys having international orange markings in conformance with the uniform state waterway marking system by the owners of the areas.~~

~~(3) A person may not operate a vessel within 75 feet of a person engaged in fishing or hunting waterfowl, unless unavoidable. If unavoidable, the vessel must be operated at not greater than no-wake speed or at a minimum speed necessary to maintain upstream progress while within 75 feet of the person engaged in fishing or hunting waterfowl.~~

~~(4) (a) A person may not purposely, knowingly, or negligently operate a motorboat upon the waters of~~

1 this state within 200 feet of a tow float or buoy displaying a "diver down" symbol, red with a white slash, on a flag.

2 ~~—— (b) The motorboat may enter the 200-foot safety zone by use of sail or oar. In an emergency or if there~~
3 ~~is insufficient water on either side of the 200-foot safety zone to pass by and stay out of the zone, the operator~~
4 ~~may use power within the zone but may not exceed no-wake speed. The burden of proving that an emergency~~
5 ~~exists or that there is insufficient water is on the operator.~~

6 ~~—— (c) The fish, wildlife, and parks commission or the board may by rule determine areas where~~
7 ~~establishment of a 200-foot safety zone is not allowed in order to provide for diver safety or the regulation of water~~
8 ~~traffic."~~

9
10 ~~—— **Section 24.** Section 23-2-529, MCA, is amended to read:~~

11 ~~—— **"23-2-529. Waterskis and surfboards.** (1) A person may not operate a motorboat or vessel on any~~
12 ~~waters of this state for the purpose of towing a person or persons on waterskis, a surfboard, or similar device~~
13 ~~unless the operator is accompanied by an observer. If the operator is 12 years of age or younger, there must be~~
14 ~~a second person, at least 18 years of age, in the vessel to observe the person being towed. The fish, wildlife, and~~
15 ~~parks commission and the board shall adopt rules regarding the proper observation and safe towing of persons~~
16 ~~on waterskis or similar devices, based on density of use of a body of water.~~

17 ~~—— (2) A person may not operate a motorboat or vessel towing a person engaged in waterskiing,~~
18 ~~surfboarding, or similar activity or towing some other contrivances nor may a person engage in those activities~~
19 ~~at any time between the hours from sunset to sunrise, except that this subsection does not apply to a performer~~
20 ~~engaged in a professional exhibition or a person engaged in a regatta or race authorized under this part.~~

21 ~~—— (3) All right-of-way rules applying to a towing vessel apply to a person being towed."~~

22
23 ~~—— **Section 25.** Section 23-2-531, MCA, is amended to read:~~

24 ~~—— **"23-2-531. Personal watercraft operation.** In addition to applicable provisions in this part, a person may~~
25 ~~not operate a personal watercraft:~~

26 ~~—— (1) unless a person operating or riding on the vessel is wearing a United States coast guard approved~~
27 ~~type I, II, III, or V personal flotation device;~~

28 ~~—— (2) if the vessel is equipped by the manufacturer with a lanyard type engine cutoff switch unless the~~
29 ~~lanyard is attached to the operator's person, clothing, or personal flotation device as is appropriate for the specific~~
30 ~~vessel;~~

~~———— (3) (a) except as provided for standup personal watercraft in subsection (3)(b) or when towing a waterskier from or to a dock or shore, at greater than no-wake speed within 200 feet of a dock, swimmer, swimming raft, nonmotorized boat, or anchored vessel on a lake or river;~~

~~———— (b) at greater than the minimum speed necessary to operate a personal watercraft when leaving or returning directly from or to a dock or shore for the purpose of launching or docking; or~~

~~———— (4) on any surface waters restricted in whole or in part by rule of the fish, wildlife, and parks commission or the board;~~

~~———— (5) in a reckless or negligent manner. Actions prohibited in 23-2-523 are considered reckless operation."~~

~~———— **Section 26.** Section 23-2-601, MCA, is amended to read:~~

~~———— **"23-2-601. Definition of terms Definitions.** As used in 23-2-601, 23-2-602, 23-2-611, 23-2-614 through 23-2-618 23-2-617, 23-2-621, 23-2-622, 23-2-631 through 23-2-635, and 23-2-641 through 23-2-644, unless the context requires otherwise, the following definitions apply:~~

~~———— (1) "Board" means the state parks and recreation board established in [section 1].~~

~~———— (1)(2) "Certificate of registration" means the owner's receipt evidencing payment of fees due in order for the snowmobile to be validly registered.~~

~~———— (2)(3) "Certificate of title" means the document issued by the department of justice as prima facie evidence of ownership.~~

~~———— (4) "Commission" means the fish and wildlife commission established in 2-15-3402.~~

~~———— (3)(5) "dbA" means sound pressure level measured on the "A" weight scale in decibels.~~

~~———— (4)(6) "Department" means the department of fish, wildlife, and parks of the state of Montana established in 2-15-3401.~~

~~———— (5)(7) "New snowmobile" means a snowmobile that has not been previously sold to an owner.~~

~~———— (6)(8) "Operator" includes each person who operates or is in actual physical control of the operation of a snowmobile.~~

~~———— (7)(9) "Owner" includes each person, other than a lienholder or person having a security interest in a snowmobile, that holds a certificate of title to a snowmobile and is entitled to the use or possession of the snowmobile.~~

~~———— (8)(10) "Person" means an individual, partnership, association, corporation, and any other body or group of persons, regardless of the degree of formal organization.~~

1 ~~——— (9)(11) "Registration decal" means an adhesive sticker produced and issued by the department of justice,~~
2 ~~its authorized agent, or a county treasurer to the owner of a snowmobile as proof of payment of all fees imposed~~
3 ~~for the registration period indicated on the sticker as recorded by the department of justice under 61-3-101.~~

4 ~~——— (10)(12) "Roadway" means only those portions of a highway, road, or street improved, designed, or~~
5 ~~ordinarily used for travel or parking of motor vehicles.~~

6 ~~——— (11)(13) "Snowmobile" means a self-propelled vehicle of an overall width of 48 inches or less, excluding~~
7 ~~accessories, designed primarily for travel on snow or ice, that may be steered by skis or runners and that is not~~
8 ~~otherwise registered or licensed under the laws of the state of Montana."~~

9
10 ~~——— **Section 27.** Section 23-2-641, MCA, is amended to read:~~

11 ~~——— **"23-2-641. Enforcement.** (1) With respect to the sale of any new snowmobile that is subject to the~~
12 ~~provisions of 23-2-601, 23-2-602, 23-2-611, 23-2-614 through 23-2-618 23-2-617, 23-2-621, 23-2-622, 23-2-631~~
13 ~~through 23-2-635, and 23-2-641 through 23-2-644, the attorney general shall, upon the request of the department,~~
14 ~~sue for the recovery of the penalties provided in 23-2-642 and bring an action for a restraining order or temporary~~
15 ~~or permanent injunction against a person who sells or offers to sell a new snowmobile that does not satisfy the~~
16 ~~sound level limitations imposed by 23-2-601, 23-2-602, 23-2-611, 23-2-614 through 23-2-618 23-2-617, 23-2-621,~~
17 ~~23-2-622, 23-2-631 through 23-2-635, and 23-2-641 through 23-2-644.~~

18 ~~——— (2) (a) The department is a criminal justice agency for the purpose of obtaining the technical assistance~~
19 ~~and support services provided by the board of crime control under the provisions of 44-4-301. Authorized officers~~
20 ~~of the department are granted peace officer status with the power:~~

21 ~~——— (i) of search, seizure, and arrest;~~

22 ~~——— (ii) to investigate activities in this state regulated by this part and rules of the department, the board, and~~
23 ~~the fish, wildlife, and parks commission; and~~

24 ~~——— (iii) to report violations to the county attorney of the county in which they occur.~~

25 ~~——— (b) Sheriffs and their deputies of the various counties of the state, the Montana highway patrol,~~
26 ~~authorized officers of the department, and the police of each municipality shall enforce the provisions of this part."~~

27
28 ~~——— **Section 28.** Section 23-2-652, MCA, is amended to read:~~

29 ~~——— **"23-2-652. Definitions.** As used in 23-2-651 through 23-2-655, the following definitions apply:~~

30 ~~——— (1) "Snowmobile" means a vehicle defined in 23-2-601(11).~~

1 ~~——— (2) "Snowmobile area" means those areas designated as snowmobile trails or areas open to the~~
2 ~~operation of snowmobiles.~~

3 ~~——— (3) "Snowmobile area operators" means those persons responsible for the maintenance of snowmobile~~
4 ~~trails and for the designation of open areas or those persons providing rental snowmobile equipment. Operators~~
5 ~~may include but are not limited to the United States forest service, the Montana department of fish, wildlife, and~~
6 ~~parks, the Montana snowmobile association, individual snowmobile clubs, landowners or their tenants, persons~~
7 ~~who offer snowmobile equipment for rent, and private trail grooming contractors.~~

8 ~~——— (4) "Snowmobiler" means any person operating or riding a snowmobile."~~

9
10 ~~——— **Section 29.** Section 23-2-801, MCA, is amended to read:~~

11 ~~——— **"23-2-801. Definition Definitions.** (1) As used in this part, the following definitions apply:~~

12 ~~——— (1) "Board" means the state parks and recreation board established in [section 1].~~

13 ~~——— (2) "Commission" means the fish and wildlife commission established in 2-15-3402.~~

14 ~~——— (3) (a) "off-highway "Off-highway vehicle" means a self-propelled vehicle used for recreation or~~
15 ~~cross-country travel on public lands, trails, easements, lakes, rivers, or streams. The term includes but is not~~
16 ~~limited to motorcycles, quadricycles, dune buggies, amphibious vehicles, air cushion vehicles, and any other~~
17 ~~means of land transportation deriving motive power from any source other than muscle or wind.~~

18 ~~——— (2) Off-highway vehicle (b) The term does not include:~~

19 ~~——— (a)(i) vehicles designed primarily for travel on, over, or in the water;~~

20 ~~——— (b)(iii) snowmobiles; or~~

21 ~~——— (c)(iii) except as provided in 23-2-804, vehicles otherwise issued a certificate of title and registered under~~
22 ~~the laws of the state, unless the vehicle is used for off-road recreation on public lands."~~

23
24 ~~——— **Section 30.** Section 23-2-806, MCA, is amended to read:~~

25 ~~——— **"23-2-806. Enforcement.** (1) The department of fish, wildlife, and parks enforcement personnel, park~~
26 ~~rangers, sheriffs and their deputies, the Montana highway patrol, and the police of each municipality shall enforce~~
27 ~~the provisions of this part.~~

28 ~~——— (2) The department is a criminal justice agency for the purpose of obtaining the technical assistance and~~
29 ~~support services provided by the board of crime control under the provisions of 44-4-301. Authorized officers of~~
30 ~~the department are granted peace officer status with the power:~~

1 ~~—— (a) of search, seizure, and arrest;~~
2 ~~—— (b) to investigate activities in this state regulated by this part and rules of the department, the board, and~~
3 ~~the fish, wildlife, and parks commission; and~~
4 ~~—— (c) to report violations to the county attorney of the county in which they occur.~~
5 ~~—— (3) Park rangers may not carry firearms in the execution of their duties."~~
6

7 **Section 20.** Section 37-47-310, MCA, is amended to read:

8 **"37-47-310. Transfer or amendment of outfitter's license -- transfer of river-use days to new owner**
9 **of fishing outfitter business.** (1) An outfitter's license may not be transferred.

10 (2) An individual person may, upon proper showing, have that person's outfitter's license amended to
11 indicate that the license is being held for the use and benefit of a named proprietorship, partnership, or
12 corporation.

13 (3) Subject to approval by the board, a person designated by the family of an outfitter who is deceased
14 or incapacitated due to physical or mental disease or injury or who is unable to carry out the responsibilities of
15 an outfitter due to the outfitter's status as an active member of the military may continue to provide outfitting
16 services for the outfitter's unexpired license year, or until the family sells the outfitting business, until the designee
17 obtains an outfitter license.

18 (4) (a) When a fishing outfitter's business is sold or transferred in its entirety, any river-use days that
19 have been allocated to that fishing outfitter through the fishing outfitter's historic use of or activities on
20 restricted-use streams are transferable to the new owner of the fishing outfitter's business. Upon the sale or
21 transfer of a fishing outfitter's business, the outfitter who sells or transfers the business shall notify the new owner
22 that the use of any transferred river-use days is subject to change pursuant to rules adopted by the fish, and
23 ~~wildlife, and parks~~ commission and that a property right does not attach to the transferred river-use days.

24 (b) Any transferred river-use days on the Smith River are subject to change pursuant to rules adopted
25 by the state parks and recreation board pursuant to 23-2-408."
26

27 **Section 21.** Section 75-1-220, MCA, is amended to read:

28 **"75-1-220. Definitions.** For the purposes of this part, the following definitions apply:

29 (1) "Alternatives analysis" means an evaluation of different parameters, mitigation measures, or control
30 measures that would accomplish the same objectives as those included in the proposed action by the applicant.

1 For a project that is not a state-sponsored project, it does not include an alternative facility or an alternative to
2 the proposed project itself. The term includes alternatives required pursuant to Title 75, chapter 20.

3 (2) "Appropriate board" means, for administrative actions taken under this part by the:

4 (a) department of environmental quality, the board of environmental review, as provided for in 2-15-3502;

5 (b) department of fish, wildlife, and parks, the fish, ~~and wildlife, and parks~~ commission, as provided for
6 in 2-15-3402, and the state parks and recreation board, as provided for in [section 1];

7 (c) department of transportation, the transportation commission, as provided for in 2-15-2502;

8 (d) department of natural resources and conservation for state trust land issues, the board of land
9 commissioners, as provided for in Article X, section 4, of the Montana constitution;

10 (e) department of natural resources and conservation for oil and gas issues, the board of oil and gas
11 conservation, as provided for in 2-15-3303; and

12 (f) department of livestock, the board of livestock, as provided for in 2-15-3102.

13 (3) "Complete application" means, for the purpose of complying with this part, an application for a permit,
14 license, or other authorization that contains all data, studies, plans, information, forms, fees, and signatures
15 required to be included with the application sufficient for the agency to approve the application under the
16 applicable statutes and rules.

17 (4) "Cumulative impacts" means the collective impacts on the human environment within the borders of
18 Montana of the proposed action when considered in conjunction with other past, present, and future actions
19 related to the proposed action by location or generic type.

20 (5) "Environmental review" means any environmental assessment, environmental impact statement, or
21 other written analysis required under this part by a state agency of a proposed action to determine, examine, or
22 document the effects and impacts of the proposed action on the quality of the human and physical environment
23 within the borders of Montana as required under this part.

24 (6) "Project sponsor" means any applicant, owner, operator, agency, or other entity that is proposing an
25 action that requires an environmental review. If the action involves state agency-initiated actions on state trust
26 lands, the term also includes each institutional beneficiary of any trust as described in The Enabling Act of
27 Congress (approved February 22, 1899, 25 Stat. 676), as amended, the Morrill Act of 1862 (7 U.S.C. 301 through
28 308), and the Morrill Act of 1890 (7 U.S.C. 321 through 329).

29 (7) "Public scoping process" means any process to determine the scope of an environmental review.

30 (8) (a) "State-sponsored project" means:

- 1 (i) a project, program, or activity initiated and directly undertaken by a state agency;
- 2 (ii) except as provided in subsection (8)(b)(i), a project or activity supported through a contract, grant,
- 3 subsidy, loan, or other form of funding assistance from a state agency, either singly or in combination with one
- 4 or more other state agencies; or
- 5 (iii) except as provided in subsection (8)(b)(i), a project or activity authorized by a state agency acting in
- 6 a land management capacity for a lease, easement, license, or other authorization to act.
- 7 (b) The term does not include:
- 8 (i) a project or activity undertaken by a private entity that is made possible by the issuance of permits,
- 9 licenses, leases, easements, grants, loans, or other authorizations to act by the:
- 10 (A) department of environmental quality pursuant to Titles 75, 76, or 82;
- 11 (B) department of fish, wildlife, and parks pursuant to Title 87, chapter 4, part 4;
- 12 (C) board of oil and gas conservation pursuant to Title 82, chapter 11; or
- 13 (D) department of natural resources and conservation or the board of land commissioners pursuant to
- 14 Titles 76, 77, 82, and 85; or
- 15 (ii) a project or activity involving the issuance of a permit, license, certificate, or other entitlement for
- 16 permission to act by another agency acting in a regulatory capacity, either singly or in combination with other
- 17 state agencies."
- 18

19 **Section 22.** Section 77-1-405, MCA, is amended to read:

20 **"77-1-405. Island parks established -- development limited.** (1) In order to retain the integrity of the

21 recreational experience associated with Montana's river and lake islands, development of undisputed state-owned

22 or state-leased island property, which is hereby designated as island parks, including islands designated as state

23 property under 70-18-203, lying within and surrounded by a navigable river, stream, or lake is limited, after April

24 30, 1997, to:

25 (a) the installation of minimal signage indicating that the island is a designated island park in which

26 development has been limited and encouraging the public to help in maintaining the island park's primitive

27 character by picking out trash;

28 (b) necessary latrine facilities if approved by the ~~fish, wildlife, and parks commission~~ state parks and

29 recreation board established in [section 1];

30 (c) footings or pilings necessary for the construction of a bridge; and

(d) oil and gas leasing.

(2) Improvements made to and agricultural operations on state-owned or state-leased island property prior to April 30, 1997, may be maintained or continued, but further development is limited as provided in this section.

(3) Notwithstanding the provisions of 77-1-203 regarding multiple-use management, the legislature finds that the highest and best use of island property administered as school trust land, except islands designated as natural areas pursuant to Title 76, chapter 12, is for recreation and grazing and that those islands should be left in as primitive state as possible to protect from the loss of potential future revenue that could result from the failure to leave the islands in an undeveloped condition.

(4) For purposes of this section, state ownership or state lease of island property is disputed if the dispute arises before, on, or after April 30, 1997."

Section 23. Section 85-2-102, MCA, is amended to read:

"85-2-102. Definitions. Unless the context requires otherwise, in this chapter, the following definitions apply:

(1) "Appropriate" means:

(a) to divert, impound, or withdraw, including by stock for stock water, a quantity of water for a beneficial use;

(b) in the case of a public agency, to reserve water in accordance with 85-2-316;

(c) in the case of the department of fish, wildlife, and parks, to change an appropriation right to instream flow to protect, maintain, or enhance streamflows to benefit the fishery resource in accordance with 85-2-436;

(d) in the case of the United States department of agriculture, forest service:

(i) instream flows and in situ use of water created in 85-20-1401, Article V; or

(ii) to change an appropriation right to divert or withdraw water under subsection (1)(a) to instream flow to protect, maintain, or enhance streamflows in accordance with 85-2-320;

(e) temporary changes or leases for instream flow to maintain or enhance instream flow to benefit the fishery resource in accordance with 85-2-408;

(f) a use of water for aquifer recharge or mitigation; or

(g) a use of water for an aquifer storage and recovery project as provided in 85-2-368.

(2) "Aquifer recharge" means either the controlled subsurface addition of water directly to the aquifer or

1 controlled application of water to the ground surface for the purpose of replenishing the aquifer to offset adverse
2 effects resulting from net depletion of surface water.

3 (3) "Aquifer storage and recovery project" means a project involving the use of an aquifer to temporarily
4 store water through various means, including but not limited to injection, surface spreading and infiltration, drain
5 fields, or another department-approved method. The stored water may be either pumped from the injection well
6 or other wells for beneficial use or allowed to naturally drain away for a beneficial use.

7 (4) "Beneficial use", unless otherwise provided, means:

8 (a) a use of water for the benefit of the appropriator, other persons, or the public, including but not limited
9 to agricultural, stock water, domestic, fish and wildlife, industrial, irrigation, mining, municipal, power, and
10 recreational uses;

11 (b) a use of water appropriated by the department for the state water leasing program under 85-2-141
12 and of water leased under a valid lease issued by the department under 85-2-141;

13 (c) a use of water by the department of fish, wildlife, and parks through a change in an appropriation right
14 for instream flow to protect, maintain, or enhance streamflows to benefit the fishery resource authorized under
15 85-2-436;

16 (d) a use of water through a temporary change in appropriation right or lease to enhance instream flow
17 to benefit the fishery resource in accordance with 85-2-408;

18 (e) a use of water for aquifer recharge or mitigation; or

19 (f) a use of water for an aquifer storage and recovery project as provided in 85-2-368.

20 (5) "Certificate" means a certificate of water right issued by the department.

21 (6) "Change in appropriation right" means a change in the place of diversion, the place of use, the
22 purpose of use, or the place of storage.

23 (7) "Commission" means the fish, and wildlife, ~~and parks~~ commission provided for in 2-15-3402.

24 (8) "Correct and complete" means that the information required to be submitted conforms to the standard
25 of substantial credible information and that all of the necessary parts of the form requiring the information have
26 been filled in with the required information for the department to begin evaluating the information.

27 (9) "Declaration" means the declaration of an existing right filed with the department under section 8,
28 Chapter 452, Laws of 1973.

29 (10) "Department" means the department of natural resources and conservation provided for in Title 2,
30 chapter 15, part 33.

(11) "Developed spring" means any artificial opening or excavation in the ground, however made, including any physical alteration at the point of discharge regardless of whether it results in any increase in the yield of ground water, from which ground water is sought or can be obtained or through which it flows under natural pressures or is artificially withdrawn.

(12) "Existing right" or "existing water right" means a right to the use of water that would be protected under the law as it existed prior to July 1, 1973. The term includes federal non-Indian and Indian reserved water rights created under federal law and water rights created under state law.

(13) "Ground water" means any water that is beneath the ground surface.

(14) "Late claim" means a claim to an existing right forfeited pursuant to the conclusive presumption of abandonment under 85-2-226.

(15) "Mitigation" means the reallocation of surface water or ground water through a change in appropriation right or other means that does not result in surface water being introduced into an aquifer through aquifer recharge to offset adverse effects resulting from net depletion of surface water.

(16) "Municipality" means an incorporated city or town organized and incorporated under Title 7, chapter 2.

(17) "Permit" means the permit to appropriate issued by the department under 85-2-301 through 85-2-303 and 85-2-306 through 85-2-314.

(18) "Person" means an individual, association, partnership, corporation, state agency, political subdivision, the United States or any agency of the United States, or any other entity.

(19) (a) "Political subdivision" means any county, incorporated city or town, public corporation, or district created pursuant to state law or other public body of the state empowered to appropriate water.

(b) The term does not mean a private corporation, association, or group.

(20) "Salvage" means to make water available for beneficial use from an existing valid appropriation through application of water-saving methods.

(21) "State water reservation" means a water right created under state law after July 1, 1973, that reserves water for existing or future beneficial uses or that maintains a minimum flow, level, or quality of water throughout the year or at periods or for defined lengths of time.

(22) "Substantial credible information" means probable, believable facts sufficient to support a reasonable legal theory upon which the department should proceed with the action requested by the person providing the information.

(23) "Waste" means the unreasonable loss of water through the design or negligent operation of an appropriation or water distribution facility or the application of water to anything but a beneficial use.

(24) "Water" means all water of the state, surface and subsurface, regardless of its character or manner of occurrence, including but not limited to geothermal water, diffuse surface water, and sewage effluent.

(25) "Water division" means a drainage basin as defined in 3-7-102.

(26) "Water judge" means a judge as provided for in Title 3, chapter 7.

(27) "Water master" means a master as provided for in Title 3, chapter 7.

(28) "Watercourse" means any naturally occurring stream or river from which water is diverted for beneficial uses. It does not include ditches, culverts, or other constructed waterways.

(29) "Well" means any artificial opening or excavation in the ground, however made, by which ground water is sought or can be obtained or through which it flows under natural pressures or is artificially withdrawn."

Section 24. Section 87-1-101, MCA, is amended to read:

"87-1-101. Definitions. Unless the context requires otherwise, in this title the following definitions apply:

(1) "Board" means the state parks and recreation board provided for in [section 1].

~~(1)(2)~~ (2) "Commission" means the fish, ~~and~~ wildlife, ~~and~~ parks commission provided for in 2-15-3402.

~~(2)(3)~~ (3) "Department" means the department of fish, wildlife, and parks provided for in Title 2, chapter 15, part 34.

~~(3)(4)~~ (4) "Director" means the director of fish, wildlife, and parks provided for in 2-15-3401.

~~(4)(5)~~ (5) "Warden" means a state fish and game warden."

Section 25. Section 87-1-106, MCA, is amended to read:

"87-1-106. Fish, wildlife, and parks offices. The principal offices of the commission, the board, and the department ~~shall~~ must be located in or near Helena, and suitable and adequate space therefor together with janitor services, light, heat, and water ~~shall~~ must be furnished by the state of Montana."

Section 26. Section 87-1-202, MCA, is amended to read:

"87-1-202. Publication of orders and rules. (1) Except as provided in subsection (2), annual and biennial rules adopted by the commission ~~or the board~~ setting seasonal hunting, fishing, trapping, and land use regulations OR BY THE BOARD SETTING SEASONAL LAND USE REGULATIONS must be published in a pamphlet format

1 that is made available to the public at all department offices and through all license providers.

2 (2) Site-specific land use regulations applicable to a particular fishing access site, wildlife management
3 area, park site, or other department land, including but not limited to speed limits, road and off-road restrictions
4 or closures, places where camping is allowed or prohibited, and seasonal closures for management purposes,
5 must be indicated to the public by signs on the premises of the particular fishing access site, wildlife management
6 area, park site, or other department land.

7 (3) (a) Commission orders setting management seasons, providing for game damage hunts, and closing
8 special seasons pursuant to 87-1-304 may be published by:

9 (i) use of the department's website;

10 (ii) use of a telephone hotline number; or

11 (iii) any other method that is readily available to the public.

12 (b) The method for notifying the public of the closure of a special season must be stated in the rule that
13 establishes the special season.

14 (4) Public notification of emergency closures of department lands, public waterways, and hunting, fishing,
15 and trapping seasons that are based on public health, safety, and welfare must be made in the manner and to
16 the extent that the department considers necessary in light of the facts surrounding the emergency, including,
17 when practical, onsite posting of the emergency closure."
18

19 **Section 27.** Section 87-1-209, MCA, is amended to read:

20 **"87-1-209. (Temporary) Acquisition and sale of land or water.** (1) Subject to 87-1-218 AND
21 SUBSECTION (8) OF THIS SECTION, the department, with the consent of the commission or the board and, in the case
22 of land acquisition involving more than 100 acres or \$100,000 in value, the approval of the board of land
23 commissioners, may acquire by purchase, lease, agreement, gift, or devise and may acquire easements upon
24 land or water for the purposes listed in this subsection. Any acquisition of land or water rights for purposes of this
25 subsection, except that portion of acquisitions made with funds provided under 87-1-242(1), must include an
26 additional 20% above the purchase price to be used for maintenance of land or water acquired by the department.
27 The additional amount above the purchase price or \$300,000, whichever is less, must be deposited in the account
28 established in 87-1-230. As used in this subsection, "maintenance" means that term as defined in and consistent
29 with the good neighbor policy in 23-1-127(2). The department may develop, operate, and maintain acquired land
30 or water rights:

1 (a) for fish hatcheries or nursery ponds;

2 (b) as land or water suitable for game, bird, fish, or fur-bearing animal restoration, propagation, or
3 protection;

4 (c) for public hunting, fishing, or trapping areas;

5 (d) to capture, propagate, transport, buy, sell, or exchange any game, birds, fish, fish eggs, or fur-bearing
6 animals needed for propagation or stocking purposes or to exercise control measures of undesirable species;

7 (e) for state parks and outdoor recreation;

8 (f) to extend and consolidate by exchange, land or water rights suitable for these purposes.

9 (2) The department, with the consent of the ~~commission~~ board, may acquire by condemnation, as
10 provided in Title 70, chapter 30, land or structures for the preservation of ~~historical~~ historic or archaeological sites
11 that are threatened with destruction or alteration.

12 (3) (a) Subject to section 2(3), Chapter 560, Laws of 2005, the department, with the consent of the
13 commission or the board, may dispose of land and water rights acquired by it on those terms after public notice
14 as required by subsection (3)(b) of this section, without regard to other laws that provide for sale or disposal of
15 state land and with or without reservation, as it considers necessary and advisable. The department, with the
16 consent of the commission or the board, may convey department land and water rights for full market value to
17 other governmental entities or to adjacent landowners without regard to the requirements of subsection (3)(b) or
18 (3)(c) if the land is less than 10 acres or if the full market value of the interest to be conveyed is less than \$20,000.
19 When the department conveys land or water rights to another governmental entity or to an adjacent landowner
20 pursuant to this subsection, the department, in addition to giving notice pursuant to subsection (3)(b), shall give
21 notice by mail to the landowners whose property adjoins the department property being conveyed.

22 (b) Subject to section 2(3), Chapter 560, Laws of 2005, notice of sale describing the land or water rights
23 to be disposed of must be published once a week for 3 successive weeks in a newspaper with general circulation
24 printed and published in the county where the land or water right is situated or, if a newspaper is not published
25 in that county, then in any newspaper with general circulation in that county.

26 (c) The notice must advertise for cash bids to be presented to the director within 60 days from the date
27 of the first publication. Each bid must be accompanied by a cashier's check or cash deposit in an amount equal
28 to 10% of the amount bid. The highest bid must be accepted upon payment of the balance due within 10 days
29 after mailing notice by certified mail to the highest bidder. If that bidder defaults on payment of the balance due,
30 then the next highest bidders must be similarly notified in succession until a sale is completed. Deposits must be

1 returned to the unsuccessful bidders except bidders defaulting after notification.

2 (d) The department shall reserve the right to reject any bids that do not equal or exceed the full market
3 value of the land or water right as determined by the department. If the department does not receive a bid that
4 equals or exceeds fair market value, it may then sell the land or water rights at private sale. The price accepted
5 on any private sale must exceed the highest bid rejected in the bid process.

6 (4) When necessary and advisable for the management and use of department property, the director
7 is authorized to grant or acquire from willing sellers right-of-way easements for purposes of utilities, roads,
8 drainage facilities, ditches for water conveyance, and pipelines if the full market value of the interest to be
9 acquired is less than \$20,000. Whenever possible, easements must include a weed management plan. Approval
10 of the commission or the board is not required for grants and acquisitions made pursuant to this subsection. In
11 granting any right-of-way pursuant to this subsection, the department shall obtain a fair market value, but the
12 department is not otherwise required to follow the disposal requirements of subsection (3). The director shall
13 report any easement grant or acquisition made pursuant to this subsection to the commission or the board at its
14 next regular meeting.

15 (5) The department shall convey land and water rights without covenants of warranty by deed executed
16 by the governor or in the governor's absence or disability by the lieutenant governor, attested by the secretary
17 of state and further countersigned by the director.

18 (6) Subject to 87-1-218, the department, with the consent of the commission, is authorized to utilize the
19 installment contract method to facilitate the acquisition of wildlife management areas in which game and nongame
20 fur-bearing animals and game and nongame birds may breed and replenish and areas that provide access to
21 fishing sites for the public. The total cost of installment contracts may not exceed the cost of purchases authorized
22 by the department and appropriated by the legislature.

23 (7) The department is authorized to enter into leases of land under its control in exchange for services
24 to be provided by the lessee on the leased land.

25 (8) APPROVAL OF THE BOARD FOR THE ACQUISITION OR DISPOSAL OF LAND OR WATER PURSUANT TO THIS
26 SECTION IS REQUIRED ONLY FOR LAND AND WATER ADMINISTERED UNDER TITLE 23, CHAPTER 1, OR TITLE 23, CHAPTER
27 2, PARTS 1 AND 4. (Terminates June 30, 2013--sec. 8, Ch. 427, L. 2009.)

28 **87-1-209. (Effective July 1, 2013) Acquisition and sale of lands or waters.** (1) Subject to 87-1-218
29 AND SUBSECTION (8) OF THIS SECTION, the department, with the consent of the commission or the board and, in the
30 case of land acquisition involving more than 100 acres or \$100,000 in value, the approval of the board of land

commissioners, may acquire by purchase, lease, agreement, gift, or devise and may acquire easements upon lands or waters for the purposes listed in this subsection. The department may develop, operate, and maintain acquired lands or waters:

(a) for fish hatcheries or nursery ponds;

(b) as lands or water suitable for game, bird, fish, or fur-bearing animal restoration, propagation, or protection;

(c) for public hunting, fishing, or trapping areas;

(d) to capture, propagate, transport, buy, sell, or exchange any game, birds, fish, fish eggs, or fur-bearing animals needed for propagation or stocking purposes or to exercise control measures of undesirable species;

(e) for state parks and outdoor recreation;

(f) to extend and consolidate by exchange, lands or waters suitable for these purposes.

(2) The department, with the consent of the ~~commission board~~, may acquire by condemnation, as provided in Title 70, chapter 30, lands or structures for the preservation of ~~historical~~ historic or archaeological sites that are threatened with destruction or alteration.

(3) (a) Subject to section 2(3), Chapter 560, Laws of 2005, the department, with the consent of the ~~commission~~ or the board, may dispose of lands and water rights acquired by it on those terms after public notice as required by subsection (3)(b) of this section, without regard to other laws that provide for sale or disposal of state lands and with or without reservation, as it considers necessary and advisable. The department, with the consent of the ~~commission~~ or the board, may convey department lands and water rights for full market value to other governmental entities or to adjacent landowners without regard to the requirements of subsection (3)(b) or (3)(c) if the land is less than 10 acres or if the full market value of the interest to be conveyed is less than \$20,000. When the department conveys land or water rights to another governmental entity or to an adjacent landowner pursuant to this subsection, the department, in addition to giving notice pursuant to subsection (3)(b), shall give notice by mail to the landowners whose property adjoins the department property being conveyed.

(b) Subject to section 2(3), Chapter 560, Laws of 2005, notice of sale describing the lands or waters to be disposed of must be published once a week for 3 successive weeks in a newspaper with general circulation printed and published in the county where the lands or waters are situated or, if a newspaper is not published in that county, then in any newspaper with general circulation in that county.

(c) The notice must advertise for cash bids to be presented to the director within 60 days from the date of the first publication. Each bid must be accompanied by a cashier's check or cash deposit in an amount equal

1 to 10% of the amount bid. The highest bid must be accepted upon payment of the balance due within 10 days
2 after mailing notice by certified mail to the highest bidder. If that bidder defaults on payment of the balance due,
3 then the next highest bidders must be similarly notified in succession until a sale is completed. Deposits must be
4 returned to the unsuccessful bidders except bidders defaulting after notification.

5 (d) The department shall reserve the right to reject any bids that do not equal or exceed the full market
6 value of the lands and waters as determined by the department. If the department does not receive a bid that
7 equals or exceeds fair market value, it may then sell the lands or water rights at private sale. The price accepted
8 on any private sale must exceed the highest bid rejected in the bid process.

9 (4) When necessary and advisable for the management and use of department property, the director
10 is authorized to grant or acquire from willing sellers right-of-way easements for purposes of utilities, roads,
11 drainage facilities, ditches for water conveyance, and pipelines if the full market value of the interest to be
12 acquired is less than \$20,000. Whenever possible, easements must include a weed management plan. Approval
13 of the commission or the board is not required for grants and acquisitions made pursuant to this subsection. In
14 granting any right-of-way pursuant to this subsection, the department shall obtain a fair market value, but the
15 department is not otherwise required to follow the disposal requirements of subsection (3). The director shall
16 report any easement grant or acquisition made pursuant to this subsection to the commission or the board at its
17 next regular meeting.

18 (5) The department shall convey lands and water rights without covenants of warranty by deed executed
19 by the governor or in the governor's absence or disability by the lieutenant governor, attested by the secretary
20 of state and further countersigned by the director.

21 (6) Subject to 87-1-218, the department, with the consent of the commission, is authorized to utilize the
22 installment contract method to facilitate the acquisition of wildlife management areas in which game and nongame
23 fur-bearing animals and game and nongame birds may breed and replenish and areas that provide access to
24 fishing sites for the public. The total cost of installment contracts may not exceed the cost of purchases authorized
25 by the department and appropriated by the legislature.

26 (7) The department is authorized to enter into leases of land under its control in exchange for services
27 to be provided by the lessee on the leased land.

28 (8) APPROVAL OF THE BOARD FOR THE ACQUISITION OR DISPOSAL OF LAND OR WATER PURSUANT TO THIS
29 SECTION IS REQUIRED ONLY FOR LAND AND WATER ADMINISTERED UNDER TITLE 23, CHAPTER 1, OR TITLE 23, CHAPTER
30 2, PARTS 1 AND 4."

1

2 **Section 28.** Section 87-1-218, MCA, is amended to read:

3 **"87-1-218. Notice of proposed land acquisitions.** (1) For all land acquisitions proposed pursuant to
4 87-1-209, the department shall provide notice to the board of county commissioners in the county where the
5 proposed acquisition is located.

6 (2) The notice must be provided at least 30 days before the proposed acquisition appears before the
7 commission or the board for its consent.

8 (3) The notice must include:

9 (a) a description of the proposed acquisition, including acreage and the use proposed by the department;

10 (b) an estimate of the measures and costs the department plans to undertake in furtherance of the
11 proposed use, including operating, staffing, and maintenance costs;

12 (c) an estimate of the property taxes payable on the proposed acquisition and a statement that if the
13 department acquires the land pursuant to 87-1-603, the department would pay a sum equal to the amount of
14 taxes that would be payable on the county assessment of the property if it was taxable to a private citizen; and

15 (d) a draft agenda of the meeting at which the proposed acquisition will be presented to the commission
16 or the board and information on how the board of county commissioners may provide comment."

17

18 **Section 29.** Section 87-1-301, MCA, is amended to read:

19 **"87-1-301. Powers of commission.** (1) Except as provided in ~~subsection~~ subsections (7) and (8), the
20 commission:

21 (a) shall set the policies for the protection, preservation, management, and propagation of the wildlife,
22 fish, game, furbearers, waterfowl, nongame species, and endangered species of the state and for the fulfillment
23 of all other responsibilities of the department related to fish and wildlife as provided by law;

24 (b) shall establish the hunting, fishing, and trapping rules of the department;

25 (c) except as provided in [section 2], ~~23-2-501,~~ and 87-1-303(3), shall establish the rules of the
26 department governing the use of lands owned or controlled by the department and waters under the jurisdiction
27 of the department;

28 (d) must have the power within the department to establish wildlife refuges and bird and game preserves;

29 (e) shall approve all acquisitions or transfers by the department of interests in land or water, except as
30 provided in [section 2] and 87-1-209(4)(2) and (4);

(f) except as provided in [section 2], shall review and approve the budget of the department prior to its transmittal to the budget office of budget and program planning;

(g) except as provided in [section 2], shall review and approve construction projects that have an estimated cost of more than \$1,000 but less than \$5,000; and

(h) shall manage elk, deer, and antelope populations based on habitat estimates determined as provided in 87-1-322 and maintain elk, deer, and antelope population numbers at or below population estimates as provided in 87-1-323. In developing or implementing an elk management plan, the commission shall consider landowner tolerance when deciding whether to restrict elk hunting on surrounding public land in a particular hunting district. As used in this subsection (1)(h), "landowner tolerance" means the written or documented verbal opinion of an affected landowner regarding the impact upon the landowner's property within the particular hunting district where a restriction on elk hunting on public property is proposed.

(2) The commission may adopt rules regarding the use and type of archery equipment that may be employed for hunting and fishing purposes, taking into account applicable standards as technical innovations in archery equipment change.

(3) The commission may adopt rules regarding the establishment of special licenses or permits, seasons, conditions, programs, or other provisions that the commission considers appropriate to promote or enhance hunting by Montana's youth and persons with disabilities.

(4) (a) The commission may adopt rules regarding nonresident big game combination licenses to:

(i) separate deer licenses from nonresident elk combination licenses;

(ii) set the fees for the separated deer combination licenses and the elk combination licenses without the deer tag;

(iii) condition the use of the deer licenses; and

(iv) limit the number of licenses sold.

(b) The commission may exercise the rulemaking authority in subsection (4)(a) when it is necessary and appropriate to regulate the harvest by nonresident big game combination license holders:

(i) for the biologically sound management of big game populations of elk, deer, and antelope;

(ii) to control the impacts of those elk, deer, and antelope populations on uses of private property; and

(iii) to ensure that elk, deer, and antelope populations are at a sustainable level as provided in 87-1-321 through 87-1-325.

(5) (a) Subject to the provisions of 87-2-115, the commission may adopt rules establishing license

1 preference systems to distribute hunting licenses and permits:

2 (i) giving an applicant who has been unsuccessful for a longer period of time priority over an applicant
3 who has been unsuccessful for a shorter period of time; and

4 (ii) giving a qualifying landowner a preference in drawings. As used in this subsection (5)(a), "qualifying
5 landowner" means the owner of land that provides some significant habitat benefit for wildlife, as determined by
6 the commission.

7 (b) The commission shall square the number of points purchased by an applicant per species when
8 conducting drawings for licenses and permits.

9 (6) (a) The commission may adopt rules to:

10 (i) limit the number of nonresident mountain lion hunters in designated hunting districts; and

11 (ii) determine the conditions under which nonresidents may hunt mountain lion in designated hunting
12 districts.

13 (b) The commission shall consider, but is not limited to consideration of, the following factors:

14 (i) harvest of lions by resident and nonresident hunters;

15 (ii) history of quota overruns;

16 (iii) composition, including age and sex, of the lion harvest;

17 (iv) historical outfitter use;

18 (v) conflicts among hunter groups;

19 (vi) availability of public and private lands; and

20 (vii) whether restrictions on nonresident hunters are more appropriate than restrictions on all hunters.

21 (7) The commission may not regulate the use or possession of firearms, firearm accessories, or
22 ammunition, including the chemical elements of ammunition used for hunting. This does not prevent:

23 (a) the restriction of certain hunting seasons to the use of specified hunting arms, such as the
24 establishment of special archery seasons;

25 (b) for human safety, the restriction of certain areas to the use of only specified hunting arms, including
26 bows and arrows, traditional handguns, and muzzleloading rifles;

27 (c) the restriction of the use of shotguns for the hunting of deer and elk pursuant to 87-6-401(1)(f);

28 (d) the regulation of migratory game bird hunting pursuant to 87-3-403; or

29 (e) the restriction of the use of rifles for bird hunting pursuant to 87-6-401(1)(g) or (1)(h).

30 (8) Pursuant to [section 2], the commission does not oversee department activities related to the

administration of state parks, primitive parks, state recreational areas, public camping grounds, state historic sites, state monuments, and other heritage and recreational resources, land, and water administered pursuant to Title 23, chapter 1, and Title 23, chapter 2, parts 1, 4, 5, 6, 8, and 9."

Section 30. Section 87-1-303, MCA, is amended to read:

"87-1-303. Rules for use of lands and waters. (1) Except as provided in [section 2], 87-1-301(7), and subsection (3) of this section, the commission may adopt and enforce rules governing uses of lands that are acquired or held under easement by the commission or lands that it operates under agreement with or in conjunction with a federal or state agency or private owner. The rules must be adopted in the interest of public health, public safety, and protection of property in regulating the use of these lands. All lease and easement agreements must itemize uses as listed in 87-1-209.

(2) Except as provided in [section 2], 23-2-501, and 87-1-301(7), the commission may adopt and enforce rules governing recreational uses of all public fishing reservoirs, public lakes, rivers, and streams that are legally accessible to the public or on reservoirs and lakes that it operates under agreement with or in conjunction with a federal or state agency or private owner. These rules must be adopted in the interest of public health, public safety, public welfare, and protection of property and public resources in regulating swimming, hunting, fishing, trapping, boating, including but not limited to boating speed regulations, the operation of motor-driven boats, the operation of personal watercraft, the resolution of conflicts between users of motorized and nonmotorized boats, waterskiing, surfboarding, picnicking, camping, sanitation, and use of firearms on the reservoirs, lakes, rivers, and streams or at designated areas along the shore of the reservoirs, lakes, rivers, and streams. Areas regulated pursuant to the authority contained in this section must be areas that are legally accessible to the public. These rules are subject to review and approval by the department of public health and human services with regard to issues of public health and sanitation before becoming effective. Copies of the rules must show that endorsement.

(3) (a) The commission may not regulate or classify domestic livestock trailing as a commercial activity or commercial use that is subject to licensing, permitting, or fee requirements. Domestic livestock trailing on land owned or controlled by the department is exempt from the requirements of Title 75, chapter 1, parts 1 through 3.

(b) The commission may authorize domestic livestock trailing across land owned or controlled by the department that is designated as a wildlife management area. The commission may adopt rules governing the timing of and the route to be used for domestic livestock trailing activities to the extent that the rules are

1 necessary both to enable the trailing of domestic livestock across the designated wildlife management area and
2 to protect and enhance state lands. The rules may not:

3 (i) require a fee for domestic livestock trailing or related activities; or

4 (ii) prohibit or unreasonably interfere with domestic livestock trailing activities.

5 (4) For the purposes of this section, the following definitions apply:

6 (a) "Domestic livestock" means domestic animals kept for farm and ranch purposes, including but not
7 limited to horses, cattle, sheep, goats, and dogs.

8 (b) "Domestic livestock trailing" means the entering upon and crossing of department lands and the use
9 of the lands for forage by domestic livestock for a maximum of 96 consecutive hours."

10
11 ~~Section 42. Section 87-1-306, MCA, is amended to read:~~

12 ~~"87-1-306. Designation of certain river stretches as no-wake waters -- personal watercraft use~~
13 ~~prohibited. (1) In the interest of public health, safety, and welfare and protection of property and public~~
14 ~~resources, the use of personal watercraft is prohibited on the headwaters of the Missouri River downstream to~~
15 ~~its confluence with Prewett Creek, except in Missouri River reservoirs, and including all tributaries but not their~~
16 ~~reservoirs.~~

17 ~~(2) The waters from Hauser dam downstream to Beaver Creek are limited to a controlled no-wake speed.~~

18 ~~(3) This section does not apply to the use of the designated waters for search and rescue, official patrol,~~
19 ~~or scientific purposes.~~

20 ~~(4) This section may not be construed to limit the authority of the commission, the board, or the~~
21 ~~department to enact by administrative rule or to enforce any other restrictions on any surface waters in the~~
22 ~~interests of public health, safety, or welfare, the protection of property or public resources, or the resolution of~~
23 ~~conflicts between users of motorized and nonmotorized boats."~~

24
25 **Section 31.** Section 87-1-401, MCA, is amended to read:

26 **"87-1-401. Director to carry out policies.** The director shall carry out the policies of the commission
27 and the board and shall adopt rules authorized by law to implement those policies."

28
29 **Section 32.** Section 87-1-622, MCA, is amended to read:

30 **"87-1-622. Forest management plan -- sustainable yield study required -- definition.** (1) The

commission and the board shall adopt ~~a forest management plan~~ plans for lands under their jurisdiction, based on an annual sustainable yield, to implement the provisions of 87-1-201(9)(a)(iv).

(2) The department, under the direction of the commission, shall, before July 1, 2012, commission a study by a qualified independent third party to determine, using scientific principles, the annual sustainable yield on forested department lands. The department shall direct the qualified independent third party to determine the annual sustainable yield pursuant to all state and federal laws.

(3) The annual timber sale requirement for the timber sale program administered by the department to address fire mitigation, pine beetle infestation, and wildlife habitat enhancement may not exceed the annual sustainable yield.

(4) The commission and the board shall review and redetermine the annual sustainable yield for lands under their jurisdiction at least once every 5 years.

(5) Expenditures necessary to meet the requirements of this section are authorized to be made by the department pursuant to 87-1-601.

(6) For the purposes of this section, the term "annual sustainable yield" means the quantity of timber that can be harvested from forested department lands each year, taking into account the ability of forested lands to generate replacement tree growth and in accordance with:

(a) the provisions of 87-1-201(9)(a)(iv);

(b) state and federal laws, including but not limited to the laws pertaining to wildlife, recreation, and maintenance of watersheds; and

(c) water quality standards that protect fisheries and aquatic life and that are adopted under the provisions of Title 75, chapter 5."

Section 33. Section 87-4-432, MCA, is amended to read:

"87-4-432. Alternative livestock advisory council -- appointment of members -- duties. (1) There is an alternative livestock advisory council to advise the department on the administration of alternative livestock ranches in this state.

(2) The alternative livestock advisory council is composed of five members, appointed by the governor as follows:

(a) one member of the board of livestock or the department of livestock;

(b) one member of the fish, and wildlife, ~~and parks~~ commission or the department;

(c) one member who is a representative of the alternative livestock industry;

(d) one member who is a veterinarian licensed to practice veterinary medicine in this state; and

(e) one member who is a representative of the sportspersons of Montana.

(3) Members of the alternative livestock advisory council shall serve staggered 2-year terms. A member may serve one additional consecutive 2-year term.

(4) The alternative livestock advisory council is attached to the department and the department of livestock in an advisory capacity only, as defined in 2-15-102. The department and the department of livestock shall provide staff support and assistance necessary for the council to perform its functions."

NEW SECTION. Section 34. Name change -- directions to code commissioner. (1) Unless otherwise provided, wherever a reference to the fish, wildlife, and parks commission, meaning the commission established in 2-15-3402, appears in legislation enacted by the 2013 legislature that refers to functions of the commission related to fish and wildlife, the code commissioner is directed to change it to an appropriate reference to the fish and wildlife commission.

(2) Unless otherwise provided, wherever a reference to the fish, wildlife, and parks commission, meaning the commission established in 2-15-3402, appears in legislation enacted by the 2013 legislature that refers to functions of the commission related to state parks or recreational resources under Title 23, chapter 1, and Title 23, chapter 2, parts 1, 4, ~~5, 6, 8,~~ and 9, the code commissioner is directed to change it to an appropriate reference to the state parks and recreation board.

NEW SECTION. Section 35. Codification instruction. (1) [Section 1] is intended to be codified as an integral part of Title 2, chapter 15, part 34, and the provisions of Title 2, chapter 15, part 34, apply to [section 1].

(2) [Section 2] is intended to be codified as an integral part of Title 23, chapter 1, part 1, and the provisions of Title 23, chapter 1, part 1, apply to [section 2].

COORDINATION SECTION. SECTION 36. COORDINATION INSTRUCTION. IF BOTH HOUSE BILL NO. 392 AND [THIS ACT] ARE PASSED AND APPROVED, THEN [SECTION 1] OF HOUSE BILL NO. 392, AMENDING 22-3-432, IS VOID AND 22-3-432 MUST BE AMENDED AS FOLLOWS:

"22-3-432. Antiquities permits. (1) A person may not excavate, remove, or restore any heritage property or paleontological remains on lands owned by the state without first obtaining an antiquities permit from

1 the historic preservation officer.

2 (2) Antiquities permits are to be granted only after careful consideration of the application for a permit
3 and after consultation with the appropriate state agency. Permits are subject to strict compliance with the
4 following guidelines:

5 (a) Antiquities permits may be granted only for work to be undertaken by reputable museums,
6 universities, colleges, or other historical, scientific, or educational institutions, societies, or persons with a view
7 toward dissemination of knowledge about cultural properties, provided a permit may not be granted unless the
8 historic preservation officer is satisfied that the applicant possesses the necessary qualifications to guarantee
9 the proper excavation of those sites and objects that may add substantially to knowledge about Montana and its
10 antiquities.

11 (b) The antiquities permit must specify that a summary report of the investigations, containing relevant
12 maps, documents, drawings, and photographs, must be submitted to the historic preservation officer. The historic
13 preservation officer shall determine the appropriate time period allowable between all work undertaken and
14 submission of the summary report.

15 (3) ~~All~~ Except as provided in subsection (5), all heritage property and paleontological remains collected
16 under an antiquities permit are the permanent property of the state and must be deposited in museums or other
17 institutions within the state or loaned to qualified institutions outside the state, unless otherwise provided for in
18 the antiquities permit.

19 (4) An antiquities permit is not a substitution for any other type of permit that a state agency may require
20 for other purposes.

21 (5) Antiquities permits may be granted for the excavation and removal of paleontological remains at
22 Makoshika state park for the purpose of selling the paleontological remains and using revenue from the sale to
23 benefit Makoshika state park. Antiquities permits granted under this subsection must be used in accordance with
24 rules adopted pursuant to [section 2(2) of House Bill No. 24]."

25
26 COORDINATION SECTION. SECTION 37. COORDINATION INSTRUCTION. IF BOTH HOUSE BILL NO. 392 AND
27 [THIS ACT] ARE PASSED AND APPROVED, THEN [SECTION 2] OF HOUSE BILL NO. 392, AMENDING 23-1-102, IS VOID AND
28 [SECTION 2 OF THIS ACT] MUST READ AS FOLLOWS:

29 "NEW SECTION. Section 2. Powers and duties of board -- rulemaking -- meetings. (1) Except as
30 provided in subsection (2), for state parks, primitive parks, state recreational areas, public camping grounds, state

1 historic sites, state monuments, and other heritage and recreational resources, land, and water administered
2 pursuant to Title 23, chapter 1, and Title 23, chapter 2, parts 1, 4, and 9, the board shall:

3 (a) set the policies and provide direction to the department for:

4 (i) the management, protection, conservation, and preservation of these properties, lands, and waters
5 and their appropriate role relative to tourism and the economic health of Montana;

6 (ii) coordinating, integrating, promoting, and furthering opportunities for education and recreation at these
7 sites, including but not limited to camping, hiking, snowmobiling, off-highway vehicle use, horseback riding,
8 mountain biking, boating, and swimming;

9 (b) work with the commission to maintain hunting and angling opportunities on these lands and waters;

10 (c) establish the rules of the department governing the use of these properties and lands. The rules must
11 be adopted in the interest of public health, public safety, public welfare, and protection of property and public
12 resources in regulating recreation, including picnicking, camping, and swimming, and sanitation. These rules are
13 subject to review and approval by the department of public health and human services with regard to issues of
14 public health and sanitation before becoming effective. Copies of the rules must show that endorsement.

15 (d) review and approve all acquisitions or transfers of interest in these properties, lands, and waters by
16 the department, except as provided in 87-1-209(4);

17 (e) review and approve the budget of the department for the administration of these properties, lands,
18 and waters prior to its transmittal to the office of budget and program planning;

19 (f) review and approve construction projects that have an estimated cost of more than \$5,000;

20 (g) work with local, state, and federal agencies to evaluate, integrate, coordinate, and promote
21 recreational opportunities statewide; and

22 (h) encourage citizen involvement in management planning for these properties, lands, and waters.

23 (2) The board may adopt rules establishing conditions for the use of antiquities permits granted pursuant
24 to 22-3-432(5).

25 (3) Pursuant to 87-1-301(1), the board does not oversee department activities related to the
26 administration of fishing access sites.

27 (4) The members of the board shall hold quarterly or other meetings for the transaction of business at
28 times and places considered necessary and proper. The meetings must be called by the presiding officer or by
29 a majority of the board and must be held at the time and place specified in the call for the meeting. A majority of
30 the members constitutes a quorum for the transaction of any business. The board shall keep a record of all the

business it transacts. The presiding officer and secretary shall sign all orders, minutes, or documents for the board."

COORDINATION SECTION. SECTION 38. COORDINATION INSTRUCTION. IF BOTH SENATE BILL NO. 237 AND [THIS ACT] ARE PASSED AND APPROVED AND IF BOTH AMEND 23-1-102, THEN THE SECTIONS AMENDING 23-1-102 ARE VOID AND 23-1-102 MUST BE AMENDED AS FOLLOWS:

"23-1-102. Powers and duties of department of fish, wildlife, and parks. (1) The department shall make a study to determine the scenic, historic, archaeological, scientific, and recreational resources of the state. ~~The~~ Subject to 87-1-209, the department may:

(a) by purchase, lease, agreement, or acceptance of donations acquire for the state any areas, sites, or objects that in its opinion should be held, improved, and maintained as state parks, state recreational areas, state monuments, or state ~~historical~~ historic sites; ~~The department, with the consent of the commission, may~~

(b) with the consent of the board, acquire by condemnation, pursuant to Title 70, chapter 30, lands or structures for the purposes provided in 87-1-209(2); and

(2)(c) ~~The department may~~ accept in the name of the state, in fee or otherwise, any areas, sites, or objects conveyed, entrusted, donated, or devised to the state.

(2) ~~#~~ The department may accept gifts, grants, bequests, or contributions of money or other property to be spent or used for any of the purposes of this part.

(3) A contract, for any of the purposes of this part, may not be entered into or another obligation incurred until money has been appropriated by the legislature or is otherwise available. ~~If the contract or obligation pertains to acquisition of areas or sites in excess of either 100 acres or \$100,000 in value, the board of land commissioners shall specifically approve the acquisition.~~

(4) The department has jurisdiction, custody, and control of all state parks, recreational areas, public camping grounds, ~~historical~~ historic sites, and monuments, except wayside camps and other public conveniences acquired, improved, and maintained by the department of transportation and contiguous to the state highway system. The department may designate lands under its control as state parks, state ~~historical~~ historic sites, or state monuments; or by any other designation that it considers appropriate. The department may remove or change the designation of any area or portion of an area and may name or change the name of any area. The department may lease those portions of designated lands that are necessary for the proper administration of the lands in keeping with the basic purpose of this part."

1
2 COORDINATION SECTION. SECTION 39. COORDINATION INSTRUCTION. IF BOTH SENATE BILL NO. 344 AND
3 [THIS ACT] ARE PASSED AND APPROVED, THEN [SECTION 9 OF THIS ACT], AMENDING 23-1-102, IS VOID AND 23-1-102 MUST
4 BE AMENDED AS FOLLOWS:

5 **"23-1-102. Powers and duties of department of fish, wildlife, and parks.** (1) The department shall
6 make a study to determine the scenic, historic, archaeological, scientific, and recreational resources of the state.
7 ~~The Subject to 87-1-209, the~~ department may:

8 (a) by purchase, lease, agreement, or acceptance of donations acquire for the state any areas, sites, or
9 objects that in its opinion should be held, improved, and maintained as state parks, state recreational areas, state
10 monuments, or state ~~historical~~ historic sites; ~~The department, with the consent of the commission, may~~

11 (b) ~~with the consent of the board,~~ acquire by condemnation, pursuant to Title 70, chapter 30, lands or
12 structures for the purposes provided in 87-1-209(2); and

13 ~~(2)(c) The department may~~ accept in the name of the state, in fee or otherwise, any areas, sites, or
14 objects conveyed, entrusted, donated, or devised to the state.

15 ~~(2) # The department~~ may accept gifts, grants, bequests, or contributions of money or other property to
16 be spent or used for any of the purposes of this part.

17 (3) A contract, for any of the purposes of this part, may not be entered into or another obligation incurred
18 until money has been appropriated by the legislature or is otherwise available. ~~If the contract or obligation pertains~~
19 ~~to acquisition of areas or sites in excess of either 100 acres or \$100,000 in value, the board of land~~
20 ~~commissioners shall specifically approve the acquisition.~~

21 (4) The department has jurisdiction, custody, and control of all state parks, recreational areas, public
22 camping grounds, ~~historical~~ historic sites, and monuments, except wayside camps and other public conveniences
23 acquired, improved, and maintained by the department of transportation and contiguous to the state highway
24 system. The department may designate lands under its control as state parks, state ~~historical~~ historic sites, or
25 state monuments; or by any other designation that it considers appropriate. The department may remove or
26 change the designation of any area or portion of an area and may name or change the name of any area. The
27 department may lease those portions of designated lands that are necessary for the proper administration of the
28 lands in keeping with the basic purpose of this part."

29
30 NEW SECTION. Section 40. Saving clause. [This act] does not affect rights and duties that matured,

1 penalties that were incurred, or proceedings that were begun before [the effective date of this act].

2

3 NEW SECTION. **Section 41. Effective date.** [This act] is effective July 1, 2013.

4 - END -



AN ACT CREATING THE STATE PARKS AND RECREATION BOARD; PROVIDING POWERS AND DUTIES; GRANTING RULEMAKING AUTHORITY; RENAMING THE FISH, WILDLIFE, AND PARKS COMMISSION; AMENDING SECTIONS 2-15-3110, 2-15-3113, 2-15-3401, 2-15-3402, 2-15-3404, 23-1-101, 23-1-102, 23-1-106, 23-1-108, 23-1-110, 23-1-121, 23-1-122, 23-2-301, 23-2-403, 23-2-404, 23-2-408, 23-2-410, 37-47-310, 75-1-220, 77-1-405, 85-2-102, 87-1-101, 87-1-106, 87-1-202, 87-1-209, 87-1-218, 87-1-301, 87-1-303, 87-1-401, 87-1-622, AND 87-4-432, MCA; AND PROVIDING AN EFFECTIVE DATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. State parks and recreation board -- composition. (1) There is a state parks and recreation board.

(2) The board consists of five members appointed by the governor, as prescribed in 2-15-124. The governor shall appoint one member from each of the following districts:

(a) District No. 1, consisting of Lincoln, Flathead, Sanders, Lake, Mineral, Missoula, Powell, Ravalli, Granite, and Lewis and Clark Counties;

(b) District No. 2, consisting of Deer Lodge, Silver Bow, Beaverhead, Madison, Jefferson, Broadwater, Gallatin, Park, and Sweet Grass Counties;

(c) District No. 3, consisting of Glacier, Toole, Liberty, Hill, Pondera, Teton, Chouteau, Cascade, Judith Basin, Fergus, Blaine, Meagher, and Wheatland Counties;

(d) District No. 4, consisting of Phillips, Valley, Daniels, Sheridan, Roosevelt, Petroleum, Garfield, McCone, Richland, Dawson, and Wibaux Counties;

(e) District No. 5, consisting of Golden Valley, Musselshell, Stillwater, Carbon, Yellowstone, Big Horn, Treasure, Rosebud, Custer, Powder River, Carter, Fallon, and Prairie Counties.

(3) Appointments must be made without regard to political affiliation and must be made solely for the wise management of state parks and outdoor recreational resources administered pursuant to Title 23, chapter 1, and Title 23, chapter 2, parts 1, 4, and 9.

(4) A person appointed to the board must be informed or experienced in the conservation and protection of state parks, heritage resources, natural resources, tourism promotion and development, or outdoor recreation.

(5) A vacancy on the board must be filled by the governor in the same manner and from the district in which the vacancy occurs.

(6) The board is designated as a quasi-judicial board for purposes of 2-15-124, except that the requirement that at least one member be an attorney does not apply.

Section 2. Powers and duties of board -- rulemaking -- meetings. (1) Except as provided in subsection (2), for state parks, primitive parks, state recreational areas, public camping grounds, state historic sites, state monuments, and other heritage and recreational resources, land, and water administered pursuant to Title 23, chapter 1, and Title 23, chapter 2, parts 1, 4, and 9, the board shall:

(a) set the policies and provide direction to the department for:

(i) the management, protection, conservation, and preservation of these properties, lands, and waters and their appropriate role relative to tourism and the economic health of Montana;

(ii) coordinating, integrating, promoting, and furthering opportunities for education and recreation at these sites, including but not limited to camping, hiking, snowmobiling, off-highway vehicle use, horseback riding, mountain biking, boating, and swimming;

(b) work with the commission to maintain hunting and angling opportunities on these lands and waters;

(c) establish the rules of the department governing the use of these properties and lands. The rules must be adopted in the interest of public health, public safety, public welfare, and protection of property and public resources in regulating recreation, including picnicking, camping, and swimming, and sanitation. These rules are subject to review and approval by the department of public health and human services with regard to issues of public health and sanitation before becoming effective. Copies of the rules must show that endorsement.

(d) review and approve all acquisitions or transfers of interest in these properties, lands, and waters by the department, except as provided in 87-1-209(4);

(e) review and approve the budget of the department for the administration of these properties, lands, and waters prior to its transmittal to the office of budget and program planning;

(f) review and approve construction projects that have an estimated cost of more than \$5,000;

(g) work with local, state, and federal agencies to evaluate, integrate, coordinate, and promote

recreational opportunities statewide; and

(h) encourage citizen involvement in management planning for these properties, lands, and waters.

(2) Pursuant to 87-1-301(1), the board does not oversee department activities related to the administration of fishing access sites.

(3) The members of the board shall hold quarterly or other meetings for the transaction of business at times and places considered necessary and proper. The meetings must be called by the presiding officer or by a majority of the board and must be held at the time and place specified in the call for the meeting. A majority of the members constitutes a quorum for the transaction of any business. The board shall keep a record of all the business it transacts. The presiding officer and secretary shall sign all orders, minutes, or documents for the board.

Section 3. Section 2-15-3110, MCA, is amended to read:

"2-15-3110. Livestock loss board -- purpose, membership, and qualifications. (1) There is a livestock loss board. The purpose of the board is to administer the programs called for in the Montana gray wolf management plan and established in 2-15-3111 through 2-15-3113, with funds provided through the accounts established in 81-1-110, in order to minimize losses caused by wolves to livestock producers and to reimburse livestock producers for livestock losses from wolf predation.

(2) The board consists of seven members, appointed by the governor, as follows:

(a) three members from a list of names recommended by the board of livestock;

(b) three members from a list of names recommended by the fish, and wildlife, ~~and parks~~ commission;
and

(c) one member of the general public.

(3) Each board member must have knowledge of or have experience in at least one of the following:

(a) the raising of livestock in Montana;

(b) livestock marketing, valuations, sales, or breeding associations;

(c) the interaction of wolves with livestock and livestock mortality caused by wolves;

(d) wildlife conservation;

(e) administration; and

(f) fundraising.

(4) The board is designated as a quasi-judicial board for the purposes of 2-15-124. Notwithstanding the provisions of 2-15-124(1), the governor is not required to appoint an attorney to serve as a member of the board.

(5) The board is allocated to the department of livestock for administrative purposes only as provided in 2-15-121.

(6) The board shall adopt rules to implement the provisions of 2-15-3110 through 2-15-3114 and 81-1-110 through 81-1-112."

Section 4. Section 2-15-3113, MCA, is amended to read:

"2-15-3113. Additional powers and duties of livestock loss board. (1) The livestock loss board shall:

- (a) process claims;
- (b) seek information necessary to ensure that claim documentation is complete;
- (c) provide payments authorized by the board for confirmed and probable livestock losses, along with a written explanation of payment;
- (d) submit monthly and annual reports to the board of livestock summarizing claims and expenditures and the results of action taken on claims and maintain files of all claims received, including supporting documentation;
- (e) provide information to the board of livestock regarding appealed claims and implement any decision by the board;
- (f) prepare the annual budget for the board; and
- (g) provide proper documentation of staff time and expenditures.

(2) The livestock loss board may enter into an agreement with any Montana tribe, if the tribe has adopted a wolf management plan for reservation lands that is consistent with the state wolf management plan, to provide that tribal lands within reservation boundaries are eligible for mitigation grants pursuant to 2-15-3111 and that livestock losses on tribal lands within reservation boundaries are eligible for reimbursement payments pursuant to 2-15-3112.

(3) The livestock loss board shall:

- (a) coordinate and share information with state, federal, and tribal officials, livestock producers, nongovernmental organizations, and the general public in an effort to reduce livestock losses caused by wolves;
- (b) establish an annual budget for the prevention, mitigation, and reimbursement of livestock losses

caused by wolves;

(c) perform or contract for the performance of periodic program audits and reviews of program expenditures, including payments to individuals, incorporated entities, and producers who receive loss reduction grants and reimbursement payments;

(d) adjudicate appeals of claims;

(e) investigate alternative or enhanced funding sources, including possible agreements with public entities and private wildlife or livestock organizations that have active livestock loss reimbursement programs in place;

(f) meet as necessary to conduct business; and

(g) report annually to the governor, the legislature, members of the Montana congressional delegation, the board of livestock, the fish, and wildlife, ~~and parks~~ commission, and the public regarding results of the programs established in 2-15-3111 through 2-15-3113.

(4) The livestock loss board may sell or auction any wolf carcasses or parts of wolf carcasses received pursuant to 87-1-217. The proceeds, minus the costs of the sale including the preparation of the carcass or part of the carcass for sale, must be deposited into the livestock loss reduction and mitigation special revenue account established in 81-1-110(2)(a) and used for the purposes of 2-15-3111 through 2-15-3114."

Section 5. Section 2-15-3401, MCA, is amended to read:

"2-15-3401. Department of fish, wildlife, and parks -- head. There is a department of fish, wildlife, and parks. The department head is the director of fish, wildlife, and parks appointed by the governor in accordance with 2-15-111. The director is the secretary of the:

(1) fish and wildlife commission established in 2-15-3402; and

(2) state parks and recreation board established in [section 1]."

Section 6. Section 2-15-3402, MCA, is amended to read:

"2-15-3402. Fish, and wildlife, ~~and parks~~ commission. (1) There is a fish, and wildlife, ~~and parks~~ commission.

(2) The commission consists of five members. At least one member must be experienced in the breeding and management of domestic livestock. The governor shall appoint one member from each of the following

districts:

(a) District No. 1, consisting of Lincoln, Flathead, Sanders, Lake, Mineral, Missoula, Powell, Ravalli, Granite, and Lewis and Clark Counties;

(b) District No. 2, consisting of Deer Lodge, Silver Bow, Beaverhead, Madison, Jefferson, Broadwater, Gallatin, Park, and Sweet Grass Counties;

(c) District No. 3, consisting of Glacier, Toole, Liberty, Hill, Pondera, Teton, Chouteau, Cascade, Judith Basin, Fergus, Blaine, Meagher, and Wheatland Counties;

(d) District No. 4, consisting of Phillips, Valley, Daniels, Sheridan, Roosevelt, Petroleum, Garfield, McCone, Richland, Dawson, and Wibaux Counties;

(e) District No. 5, consisting of Golden Valley, Musselshell, Stillwater, Carbon, Yellowstone, Big Horn, Treasure, Rosebud, Custer, Powder River, Carter, Fallon, and Prairie Counties.

(3) Appointments must be made without regard to political affiliation and must be made solely for the wise management of fish, wildlife, ~~and state parks and other outdoor~~ related recreational resources of this state. A person may not be appointed to the commission unless the person is informed or interested and experienced in the subject of fish, wildlife, ~~parks, and outdoor~~ recreation and the requirements for the conservation and protection of fish, wildlife, ~~parks, and outdoor~~ recreational resources.

(4) A vacancy occurring on the commission must be filled by the governor in the same manner and from the district in which the vacancy occurs.

(5) The fish, ~~and wildlife, and parks~~ and commission is designated as a quasi-judicial board for purposes of 2-15-124. Notwithstanding the provisions of 2-15-124(1), the governor is not required to appoint an attorney to serve as a member of the commission."

Section 7. Section 2-15-3404, MCA, is amended to read:

"2-15-3404. Fish, wildlife, and parks crimestoppers board. (1) There is a fish, wildlife, and parks crimestoppers board.

(2) (a) The board consists of five members, four of whom are appointed by the director of the department of fish, wildlife, and parks; as follows:

(i) a person within the department responsible for the enforcement of fish and wildlife laws;

(ii) a member of a hunter's, angler's, or conservation group;

(iii) a member who is actively engaged in agricultural production; and

(iv) a member of the public with an interest in parks and recreation.

(b) The fifth member is a member of the fish, and wildlife, ~~and parks~~ commission who must be designated by the commission.

(3) The board shall elect a presiding officer from its members.

(4) A member must be appointed for a term of 2 years and may be reappointed.

(5) (a) A vacancy must be filled within 14 days of occurrence in the same manner as the original appointment.

(b) A vacancy does not impair the right of the remaining members to exercise the powers of the board.

(6) The board is allocated to the department of fish, wildlife, and parks for administrative purposes only as provided in 2-15-121."

Section 8. Section 23-1-101, MCA, is amended to read:

"23-1-101. ~~Purpose~~ Purposes -- definitions. (1) For the ~~purpose~~ purposes of conserving the scenic, historic, archaeologic, scientific, and recreational resources of the state, ~~and~~ providing for their use and enjoyment, ~~thereby~~ and contributing to the cultural, recreational, and economic life of the people and their health, the department of fish, wildlife, and parks (hereinafter referred to as department) ~~is and board are hereby~~ vested with the duties and powers ~~hereinafter~~ set forth in this part.

(2) For the purposes of this part, the following definitions apply:

(a) "Board" means the state parks and recreation board established in [section 1].

(b) "Commission" means the fish and wildlife commission established in 2-15-3402.

(c) "Department" means the department of fish, wildlife, and parks established in 2-15-3401.

(d) "Director" means the director of fish, wildlife, and parks as provided in 2-15-3401."

Section 9. Section 23-1-102, MCA, is amended to read:

"23-1-102. ~~Powers and duties of department of fish, wildlife, and parks.~~ (1) The department shall make a study to determine the scenic, historic, archaeologic, scientific, and recreational resources of the state. ~~The~~ The department may:

(a) by purchase, lease, agreement, or acceptance of donations acquire for the state any areas, sites,

or objects that in its opinion should be held, improved, and maintained as state parks, state recreational areas, state monuments, or state ~~historical~~ historic sites; ~~The department, with the consent of the commission, may~~

(b) with the consent of the board, acquire by condemnation, pursuant to Title 70, chapter 30, lands or structures for the purposes provided in 87-1-209(2);

~~(2)(c) The department may accept in the name of the state, in fee or otherwise, any areas, sites, or objects conveyed, entrusted, donated, or devised to the state; and~~

(d) lease those portions of designated lands that are necessary for the proper administration of the lands in keeping with the basic purposes of this part.

~~(2) ‡~~ The department may accept gifts, grants, bequests, or contributions of money or other property to be spent or used for any of the purposes of this part.

(3) A contract, for any of the purposes of this part, may not be entered into or another obligation incurred until money has been appropriated by the legislature or is otherwise available. If the contract or obligation pertains to acquisition of areas or sites in excess of either 100 acres or \$100,000 in value, the board of land commissioners shall specifically approve the acquisition.

(4) The department has jurisdiction, custody, and control of all state parks, recreational areas, public camping grounds, ~~historical~~ historic sites, and monuments, except wayside camps and other public conveniences acquired, improved, and maintained by the department of transportation and contiguous to the state highway system. The department may designate lands under its control as state parks, state ~~historical~~ historic sites, or state monuments; or by any other designation that it considers appropriate. The department may remove or change the designation of any area or portion of an area and may name or change the name of any area. ~~The department may lease those portions of designated lands that are necessary for the proper administration of the lands in keeping with the basic purpose of this part."~~

Section 10. Section 23-1-106, MCA, is amended to read:

"23-1-106. Rules -- penalties -- enforcement. (1) The department and the board may make rules governing the use, occupancy, and protection of the property under ~~its~~ their control.

(2) ~~Any~~ A person who violates ~~any of the rules made by the department~~ subsection (3) or a rule established pursuant to subsection (1) this section is guilty of a misdemeanor and shall be fined not more than \$500 or be imprisoned in the county jail for not more than 6 months.

(3) ~~It is unlawful and a misdemeanor punishable as provided in subsection (2) to~~ A person may not refuse to exhibit for inspection any park permit, proof of age, or proof of residency upon request by a fish and game warden, park ranger, or peace officer.

(4) The department shall enforce the provisions of this chapter and rules implementing this chapter. The director ~~of the department~~ shall employ all necessary and qualified personnel for enforcement purposes.

(5) The department is a criminal justice agency for the purpose of obtaining the technical assistance and support services provided by the board of crime control under the provisions of 44-4-301. Authorized officers of the department are granted peace officer status with the power:

- (a) of search, seizure, and arrest;
- (b) to investigate activities in this state regulated by this chapter and rules of the department and the ~~fish, wildlife, and parks commission board~~; and
- (c) to report violations to the county attorney of the county in which they occur."

Section 11. Section 23-1-108, MCA, is amended to read:

"23-1-108. Acquisition of certain state parks, monuments, or ~~historical~~ historic sites. (1) Any person, association, or representative of a governing unit may submit a proposal for the acquisition of a site or area described in 23-1-102 from the income of the trust fund created in 15-35-108 to the department ~~of fish, wildlife, and parks~~ by July 1 of the year preceding the convening of a legislative session.

(2) The ~~fish, wildlife, and parks commission board~~ shall present to the legislature by the 15th day of any legislative session a list of areas, sites, or objects that were proposed for purchase for use as state parks, state recreational areas, state monuments, or state ~~historical~~ historic sites with the money contained in the parks account.

(3) The legislature must appropriate funds from this account before any park, area, monument, or site may be purchased."

Section 12. Section 23-1-110, MCA, is amended to read:

"23-1-110. Improvement or development of state park or fishing access site -- required public involvement -- rules. (1) ~~The fish, wildlife, and parks commission shall adopt rules establishing a policy whereby any~~ Any proposed improvement or development of a state park or fishing access site that significantly

changes park or fishing access site features or use patterns is subject to notice of proposed modifications, both statewide and locally, and to opportunity for a public meeting and public comment on the advisability and acceptability of the proposal. Rules to govern the notice, meeting, and comment process must be adopted:

- (a) for state parks by the board; and
- (b) for fishing access sites by the commission.

(2) The department shall prepare a public report regarding any project that is subject to the provisions of subsection (1). The report must include conclusions relating to the following aspects of the proposal:

- (a) the desires of the public as expressed to the department;
- (b) the capacity of the park or fishing access site for development;
- (c) environmental impacts associated with the improvement or development;
- (d) the long-range maintenance of the improvements;
- (e) the protection of natural, cultural, and historical park or fishing access site features;
- (f) potential impacts on tourism; and
- (g) site-specific modifications as they relate to the park or fishing access site system as a whole."

Section 13. Section 23-1-121, MCA, is amended to read:

"23-1-121. Park rangers -- qualifications -- powers and duties. (1) The department is authorized to establish a corps of park rangers and to select and appoint park rangers who must be qualified by their experience, training, skill, and interest in the protection, conservation, and stewardship of the natural and cultural resources and parks administered by the department.

(2) Park rangers shall:

(a) enforce the laws of this state and the rules of the department and the fish, wildlife, and parks commission board that provide for the protection, conservation, and stewardship of the natural and cultural resources in the state parks system-;

~~(3) Park rangers shall~~

- (b) protect campers, picnickers, and other park users;
- (c) keep the peace;
- (d) supervise public use; and
- (e) maintain public order in all units of the state parks system-; and

~~(4)(f) Park rangers shall~~ perform all other duties prescribed by the department."

Section 14. Section 23-1-122, MCA, is amended to read:

"23-1-122. Enforcement powers of park rangers and game wardens. (1) Park rangers appointed pursuant to 23-1-121 and fish and game wardens appointed pursuant to 87-1-501 are authorized officers with the authority to enforce the laws and adopted rules relating to parks and outdoor recreation contained in chapters 1 and 2 of this title, except chapter 2, part 7.

(2) An authorized officer may:

(a) arrest, in accordance with Title 46, chapter 6, any person within an area managed by the department upon probable cause to believe that the person has committed an offense against chapters 1 and 2 of this title, except chapter 2, part 7, or rules of the department, the board, or the ~~fish, wildlife, and parks~~ commission;

(b) enforce the disorderly conduct and public nuisance laws under 45-8-101 and 45-8-111 as they apply to the operation of motorboats on waters within areas managed by the department under this part; and

(c) exercise other powers of peace officers in the enforcement of:

(i) laws relating to parks and outdoor recreation contained in chapters 1 and 2 of this title, except chapter 2, part 7;

(ii) rules of the department, the board, and the ~~fish, wildlife, and parks~~ commission; and

(iii) judgments obtained for violations of the laws and rules specified in this subsection (2)(c)."

Section 15. Section 23-2-301, MCA, is amended to read:

"23-2-301. Definitions. For purposes of this part, the following definitions apply:

(1) "Barrier" means an artificial obstruction located in or over a water body, restricting passage on or through the water, that totally or effectively obstructs the recreational use of the surface water at the time of use. A barrier may include but is not limited to a bridge or fence or any other artificial obstacle to the natural flow of water.

(2) "Class I waters" means surface waters, other than lakes, that:

(a) lie within the officially recorded federal government survey meander lines of the waters;

(b) flow over lands that have been judicially determined to be owned by the state by reason of application of the federal navigability test for state streambed ownership;

(c) are or have been capable of supporting the following commercial activities: log floating, transportation of furs and skins, shipping, commercial guiding using multiperson watercraft, public transportation, or the transportation of merchandise, as these activities have been defined by published judicial opinion as of April 19, 1985; or

(d) are or have been capable of supporting commercial activity within the meaning of the federal navigability test for state streambed ownership.

(3) "Class II waters" means all surface waters that are not class I waters, except lakes.

(4) "Commission" means the fish, and wildlife, ~~and parks~~ commission provided for in 2-15-3402.

(5) "Department" means the department of fish, wildlife, and parks provided for in 2-15-3401.

(6) "Diverted away from a natural water body" means a diversion of surface water through a constructed water conveyance system, including but not limited to:

(a) an irrigation or drainage canal or ditch;

(b) an industrial, municipal, or domestic water system, excluding the lake, stream, or reservoir from which the system obtains water;

(c) a flood control channel; or

(d) a hydropower inlet and discharge facility.

(7) "Lake" means a body of water where the surface water is retained by either natural or artificial means and the natural flow of water is substantially impeded.

(8) "Occupied dwelling" means a building used for a human dwelling at least once a year.

(9) "Ordinary high-water mark" means the line that water impresses on land by covering it for sufficient periods to cause physical characteristics that distinguish the area below the line from the area above it. Characteristics of the area below the line include, when appropriate, but are not limited to deprivation of the soil of substantially all terrestrial vegetation and destruction of its agricultural vegetative value. A flood plain adjacent to surface waters is not considered to lie within the surface waters' high-water marks.

(10) "Recreational use" means with respect to surface waters: fishing, hunting, swimming, floating in small craft or other flotation devices, boating in motorized craft unless otherwise prohibited or regulated by law, or craft propelled by oar or paddle, other water-related pleasure activities, and related unavoidable or incidental uses.

(11) "Supervisors" means the board of supervisors of a soil conservation district, the directors of a grazing district, or the board of county commissioners if a request pursuant to 23-2-311(3)(b) is not within the boundaries

of a conservation district or if the request is refused by the board of supervisors of a soil conservation district or the directors of a grazing district.

(12) "Surface water" means, for the purpose of determining the public's access for recreational use, a natural water body, its bed, and its banks up to the ordinary high-water mark."

Section 16. Section 23-2-403, MCA, is amended to read:

"23-2-403. Definitions. As used in this part, the following definitions apply:

(1) "Board" means the state parks and recreation board established in [section 1].

(1)(2) "Commission" means the fish, and wildlife, ~~and parks~~ commission ~~provided for~~ established in 2-15-3402.

(2)(3) "Department" means the department of fish, wildlife, and parks provided for in 2-15-3401."

Section 17. Section 23-2-404, MCA, is amended to read:

"23-2-404. Applicability. This part applies to that portion of the Smith River waterway located in Meagher and Cascade Counties lying between the Camp Baker ~~state fishing access site~~ in Meagher County and the confluence of the Smith River with the Missouri River. This description does not prevent the department from naming or renaming areas pursuant to 23-1-102."

Section 18. Section 23-2-408, MCA, is amended to read:

"23-2-408. Rulemaking authority. The ~~commission~~ board has authority to provide for the administration of the Smith River waterway. The ~~commission~~ board may adopt rules to:

(1) regulate and allocate recreational and commercial floating and camping to preserve the biological and social benefits of recreational and commercial use of the Smith River waterway in its natural state. Recreational use may be restricted to preserve the experience of floating, fishing, and camping in a natural environment and to protect the river's fish, wildlife, water, and canyon resources. The restrictions must:

(a) consider the tolerance of adjacent landowners to recreational use;

(b) consider the capability of the river and adjoining lands to accommodate floating and camping use;

and

(c) ensure an acceptable level of user satisfaction, including minimizing user conflicts and providing for

a level of solitude.

(2) restrict recreational use, if necessary, through the implementation of a permit system. An allocation of a portion of the permits may be made to licensed outfitters to preserve the availability of outfitting services to the public.

(3) regulate the activities of recreational and commercial users of the water and land in the Smith River waterway that are legally accessible to the public and regulate the land in the river corridor that is under the control of the department and ~~commission~~ the board:

- (a) for the purposes of safety, health, and protection of property;
 - (b) to preserve the experience of floating, fishing, and camping in a natural environment;
 - (c) to protect the river's fish, wildlife, water, and canyon resources; and
 - (d) to minimize conflicts between recreationists and private landowners; and
- (4) establish recreational and commercial user fees for floating and camping on the Smith River waterway."

Section 19. Section 23-2-410, MCA, is amended to read:

"23-2-410. Penalty -- enforcement. (1) A person who violates a rule of the ~~commission~~ board adopted pursuant to this part is guilty of a misdemeanor punishable by a fine of not less than \$50 or more than \$500; or by imprisonment in a county jail for not more than 6 months, ~~or by both fine and imprisonment.~~

(2) The department is a criminal justice agency for the purpose of obtaining the technical assistance and support services provided by the board of crime control under the provisions of 44-4-301. Authorized officers of the department are granted peace officer status with the power:

- (a) of search, seizure, and arrest;
- (b) to investigate activities in this state regulated by this part and rules of the department, the board, and the commission; and
- (c) to report violations to the county attorney of the county in which they occur."

Section 20. Section 37-47-310, MCA, is amended to read:

"37-47-310. Transfer or amendment of outfitter's license -- transfer of river-use days to new owner of fishing outfitter business. (1) An outfitter's license may not be transferred.

(2) An individual person may, upon proper showing, have that person's outfitter's license amended to indicate that the license is being held for the use and benefit of a named proprietorship, partnership, or corporation.

(3) Subject to approval by the board, a person designated by the family of an outfitter who is deceased or incapacitated due to physical or mental disease or injury or who is unable to carry out the responsibilities of an outfitter due to the outfitter's status as an active member of the military may continue to provide outfitting services for the outfitter's unexpired license year, or until the family sells the outfitting business, until the designee obtains an outfitter license.

(4) (a) When a fishing outfitter's business is sold or transferred in its entirety, any river-use days that have been allocated to that fishing outfitter through the fishing outfitter's historic use of or activities on restricted-use streams are transferable to the new owner of the fishing outfitter's business. Upon the sale or transfer of a fishing outfitter's business, the outfitter who sells or transfers the business shall notify the new owner that the use of any transferred river-use days is subject to change pursuant to rules adopted by the fish; and wildlife, ~~and parks~~ commission and that a property right does not attach to the transferred river-use days.

(b) Any transferred river-use days on the Smith River are subject to change pursuant to rules adopted by the state parks and recreation board pursuant to 23-2-408."

Section 21. Section 75-1-220, MCA, is amended to read:

"75-1-220. Definitions. For the purposes of this part, the following definitions apply:

(1) "Alternatives analysis" means an evaluation of different parameters, mitigation measures, or control measures that would accomplish the same objectives as those included in the proposed action by the applicant. For a project that is not a state-sponsored project, it does not include an alternative facility or an alternative to the proposed project itself. The term includes alternatives required pursuant to Title 75, chapter 20.

(2) "Appropriate board" means, for administrative actions taken under this part by the:

(a) department of environmental quality, the board of environmental review, as provided for in 2-15-3502;
 (b) department of fish, wildlife, and parks, the fish; and wildlife, ~~and parks~~ commission, as provided for in 2-15-3402, and the state parks and recreation board, as provided for in [section 1];

(c) department of transportation, the transportation commission, as provided for in 2-15-2502;

(d) department of natural resources and conservation for state trust land issues, the board of land

commissioners, as provided for in Article X, section 4, of the Montana constitution;

(e) department of natural resources and conservation for oil and gas issues, the board of oil and gas conservation, as provided for in 2-15-3303; and

(f) department of livestock, the board of livestock, as provided for in 2-15-3102.

(3) "Complete application" means, for the purpose of complying with this part, an application for a permit, license, or other authorization that contains all data, studies, plans, information, forms, fees, and signatures required to be included with the application sufficient for the agency to approve the application under the applicable statutes and rules.

(4) "Cumulative impacts" means the collective impacts on the human environment within the borders of Montana of the proposed action when considered in conjunction with other past, present, and future actions related to the proposed action by location or generic type.

(5) "Environmental review" means any environmental assessment, environmental impact statement, or other written analysis required under this part by a state agency of a proposed action to determine, examine, or document the effects and impacts of the proposed action on the quality of the human and physical environment within the borders of Montana as required under this part.

(6) "Project sponsor" means any applicant, owner, operator, agency, or other entity that is proposing an action that requires an environmental review. If the action involves state agency-initiated actions on state trust lands, the term also includes each institutional beneficiary of any trust as described in The Enabling Act of Congress (approved February 22, 1899, 25 Stat. 676), as amended, the Morrill Act of 1862 (7 U.S.C. 301 through 308), and the Morrill Act of 1890 (7 U.S.C. 321 through 329).

(7) "Public scoping process" means any process to determine the scope of an environmental review.

(8) (a) "State-sponsored project" means:

(i) a project, program, or activity initiated and directly undertaken by a state agency;

(ii) except as provided in subsection (8)(b)(i), a project or activity supported through a contract, grant, subsidy, loan, or other form of funding assistance from a state agency, either singly or in combination with one or more other state agencies; or

(iii) except as provided in subsection (8)(b)(i), a project or activity authorized by a state agency acting in a land management capacity for a lease, easement, license, or other authorization to act.

(b) The term does not include:

(i) a project or activity undertaken by a private entity that is made possible by the issuance of permits, licenses, leases, easements, grants, loans, or other authorizations to act by the:

(A) department of environmental quality pursuant to Titles 75, 76, or 82;

(B) department of fish, wildlife, and parks pursuant to Title 87, chapter 4, part 4;

(C) board of oil and gas conservation pursuant to Title 82, chapter 11; or

(D) department of natural resources and conservation or the board of land commissioners pursuant to Titles 76, 77, 82, and 85; or

(ii) a project or activity involving the issuance of a permit, license, certificate, or other entitlement for permission to act by another agency acting in a regulatory capacity, either singly or in combination with other state agencies."

Section 22. Section 77-1-405, MCA, is amended to read:

"77-1-405. Island parks established -- development limited. (1) In order to retain the integrity of the recreational experience associated with Montana's river and lake islands, development of undisputed state-owned or state-leased island property, which is hereby designated as island parks, including islands designated as state property under 70-18-203, lying within and surrounded by a navigable river, stream, or lake is limited, after April 30, 1997, to:

(a) the installation of minimal signage indicating that the island is a designated island park in which development has been limited and encouraging the public to help in maintaining the island park's primitive character by picking out trash;

(b) necessary latrine facilities if approved by the ~~fish, wildlife, and parks commission~~ state parks and recreation board established in [section 1];

(c) footings or pilings necessary for the construction of a bridge; and

(d) oil and gas leasing.

(2) Improvements made to and agricultural operations on state-owned or state-leased island property prior to April 30, 1997, may be maintained or continued, but further development is limited as provided in this section.

(3) Notwithstanding the provisions of 77-1-203 regarding multiple-use management, the legislature finds that the highest and best use of island property administered as school trust land, except islands designated as

natural areas pursuant to Title 76, chapter 12, is for recreation and grazing and that those islands should be left in as primitive state as possible to protect from the loss of potential future revenue that could result from the failure to leave the islands in an undeveloped condition.

(4) For purposes of this section, state ownership or state lease of island property is disputed if the dispute arises before, on, or after April 30, 1997."

Section 23. Section 85-2-102, MCA, is amended to read:

"85-2-102. Definitions. Unless the context requires otherwise, in this chapter, the following definitions apply:

(1) "Appropriate" means:

(a) to divert, impound, or withdraw, including by stock for stock water, a quantity of water for a beneficial use;

(b) in the case of a public agency, to reserve water in accordance with 85-2-316;

(c) in the case of the department of fish, wildlife, and parks, to change an appropriation right to instream flow to protect, maintain, or enhance streamflows to benefit the fishery resource in accordance with 85-2-436;

(d) in the case of the United States department of agriculture, forest service:

(i) instream flows and in situ use of water created in 85-20-1401, Article V; or

(ii) to change an appropriation right to divert or withdraw water under subsection (1)(a) to instream flow to protect, maintain, or enhance streamflows in accordance with 85-2-320;

(e) temporary changes or leases for instream flow to maintain or enhance instream flow to benefit the fishery resource in accordance with 85-2-408;

(f) a use of water for aquifer recharge or mitigation; or

(g) a use of water for an aquifer storage and recovery project as provided in 85-2-368.

(2) "Aquifer recharge" means either the controlled subsurface addition of water directly to the aquifer or controlled application of water to the ground surface for the purpose of replenishing the aquifer to offset adverse effects resulting from net depletion of surface water.

(3) "Aquifer storage and recovery project" means a project involving the use of an aquifer to temporarily store water through various means, including but not limited to injection, surface spreading and infiltration, drain fields, or another department-approved method. The stored water may be either pumped from the injection well

or other wells for beneficial use or allowed to naturally drain away for a beneficial use.

(4) "Beneficial use", unless otherwise provided, means:

(a) a use of water for the benefit of the appropriator, other persons, or the public, including but not limited to agricultural, stock water, domestic, fish and wildlife, industrial, irrigation, mining, municipal, power, and recreational uses;

(b) a use of water appropriated by the department for the state water leasing program under 85-2-141 and of water leased under a valid lease issued by the department under 85-2-141;

(c) a use of water by the department of fish, wildlife, and parks through a change in an appropriation right for instream flow to protect, maintain, or enhance streamflows to benefit the fishery resource authorized under 85-2-436;

(d) a use of water through a temporary change in appropriation right or lease to enhance instream flow to benefit the fishery resource in accordance with 85-2-408;

(e) a use of water for aquifer recharge or mitigation; or

(f) a use of water for an aquifer storage and recovery project as provided in 85-2-368.

(5) "Certificate" means a certificate of water right issued by the department.

(6) "Change in appropriation right" means a change in the place of diversion, the place of use, the purpose of use, or the place of storage.

(7) "Commission" means the fish, ~~and wildlife, and parks~~ commission provided for in 2-15-3402.

(8) "Correct and complete" means that the information required to be submitted conforms to the standard of substantial credible information and that all of the necessary parts of the form requiring the information have been filled in with the required information for the department to begin evaluating the information.

(9) "Declaration" means the declaration of an existing right filed with the department under section 8, Chapter 452, Laws of 1973.

(10) "Department" means the department of natural resources and conservation provided for in Title 2, chapter 15, part 33.

(11) "Developed spring" means any artificial opening or excavation in the ground, however made, including any physical alteration at the point of discharge regardless of whether it results in any increase in the yield of ground water, from which ground water is sought or can be obtained or through which it flows under natural pressures or is artificially withdrawn.

(12) "Existing right" or "existing water right" means a right to the use of water that would be protected under the law as it existed prior to July 1, 1973. The term includes federal non-Indian and Indian reserved water rights created under federal law and water rights created under state law.

(13) "Ground water" means any water that is beneath the ground surface.

(14) "Late claim" means a claim to an existing right forfeited pursuant to the conclusive presumption of abandonment under 85-2-226.

(15) "Mitigation" means the reallocation of surface water or ground water through a change in appropriation right or other means that does not result in surface water being introduced into an aquifer through aquifer recharge to offset adverse effects resulting from net depletion of surface water.

(16) "Municipality" means an incorporated city or town organized and incorporated under Title 7, chapter 2.

(17) "Permit" means the permit to appropriate issued by the department under 85-2-301 through 85-2-303 and 85-2-306 through 85-2-314.

(18) "Person" means an individual, association, partnership, corporation, state agency, political subdivision, the United States or any agency of the United States, or any other entity.

(19) (a) "Political subdivision" means any county, incorporated city or town, public corporation, or district created pursuant to state law or other public body of the state empowered to appropriate water.

(b) The term does not mean a private corporation, association, or group.

(20) "Salvage" means to make water available for beneficial use from an existing valid appropriation through application of water-saving methods.

(21) "State water reservation" means a water right created under state law after July 1, 1973, that reserves water for existing or future beneficial uses or that maintains a minimum flow, level, or quality of water throughout the year or at periods or for defined lengths of time.

(22) "Substantial credible information" means probable, believable facts sufficient to support a reasonable legal theory upon which the department should proceed with the action requested by the person providing the information.

(23) "Waste" means the unreasonable loss of water through the design or negligent operation of an appropriation or water distribution facility or the application of water to anything but a beneficial use.

(24) "Water" means all water of the state, surface and subsurface, regardless of its character or manner

of occurrence, including but not limited to geothermal water, diffuse surface water, and sewage effluent.

(25) "Water division" means a drainage basin as defined in 3-7-102.

(26) "Water judge" means a judge as provided for in Title 3, chapter 7.

(27) "Water master" means a master as provided for in Title 3, chapter 7.

(28) "Watercourse" means any naturally occurring stream or river from which water is diverted for beneficial uses. It does not include ditches, culverts, or other constructed waterways.

(29) "Well" means any artificial opening or excavation in the ground, however made, by which ground water is sought or can be obtained or through which it flows under natural pressures or is artificially withdrawn."

Section 24. Section 87-1-101, MCA, is amended to read:

"87-1-101. Definitions. Unless the context requires otherwise, in this title the following definitions apply:

(1) "Board" means the state parks and recreation board provided for in [section 1].

~~(1)(2)~~ (2) "Commission" means the fish, and wildlife, ~~and parks~~ commission provided for in 2-15-3402.

~~(2)(3)~~ (3) "Department" means the department of fish, wildlife, and parks provided for in Title 2, chapter 15, part 34.

~~(3)(4)~~ (4) "Director" means the director of fish, wildlife, and parks provided for in 2-15-3401.

~~(4)(5)~~ (5) "Warden" means a state fish and game warden."

Section 25. Section 87-1-106, MCA, is amended to read:

"87-1-106. Fish, wildlife, and parks offices. The principal offices of the commission, the board, and the department shall must be located in or near Helena, and suitable and adequate space therefor together with janitor services, light, heat, and water ~~shall must~~ be furnished by the state of Montana."

Section 26. Section 87-1-202, MCA, is amended to read:

"87-1-202. Publication of orders and rules. (1) Except as provided in subsection (2), annual and biennial rules adopted by the commission setting seasonal hunting, fishing, trapping, and land use regulations or by the board setting seasonal land use regulations must be published in a pamphlet format that is made available to the public at all department offices and through all license providers.

(2) Site-specific land use regulations applicable to a particular fishing access site, wildlife management

area, park site, or other department land, including but not limited to speed limits, road and off-road restrictions or closures, places where camping is allowed or prohibited, and seasonal closures for management purposes, must be indicated to the public by signs on the premises of the particular fishing access site, wildlife management area, park site, or other department land.

(3) (a) Commission orders setting management seasons, providing for game damage hunts, and closing special seasons pursuant to 87-1-304 may be published by:

- (i) use of the department's website;
- (ii) use of a telephone hotline number; or
- (iii) any other method that is readily available to the public.

(b) The method for notifying the public of the closure of a special season must be stated in the rule that establishes the special season.

(4) Public notification of emergency closures of department lands, public waterways, and hunting, fishing, and trapping seasons that are based on public health, safety, and welfare must be made in the manner and to the extent that the department considers necessary in light of the facts surrounding the emergency, including, when practical, onsite posting of the emergency closure."

Section 27. Section 87-1-209, MCA, is amended to read:

"87-1-209. (Temporary) Acquisition and sale of land or water. (1) Subject to 87-1-218 and subsection (8) of this section, the department, with the consent of the commission or the board and, in the case of land acquisition involving more than 100 acres or \$100,000 in value, the approval of the board of land commissioners, may acquire by purchase, lease, agreement, gift, or devise and may acquire easements upon land or water for the purposes listed in this subsection. Any acquisition of land or water rights for purposes of this subsection, except that portion of acquisitions made with funds provided under 87-1-242(1), must include an additional 20% above the purchase price to be used for maintenance of land or water acquired by the department. The additional amount above the purchase price or \$300,000, whichever is less, must be deposited in the account established in 87-1-230. As used in this subsection, "maintenance" means that term as defined in and consistent with the good neighbor policy in 23-1-127(2). The department may develop, operate, and maintain acquired land or water rights:

- (a) for fish hatcheries or nursery ponds;

(b) as land or water suitable for game, bird, fish, or fur-bearing animal restoration, propagation, or protection;

(c) for public hunting, fishing, or trapping areas;

(d) to capture, propagate, transport, buy, sell, or exchange any game, birds, fish, fish eggs, or fur-bearing animals needed for propagation or stocking purposes or to exercise control measures of undesirable species;

(e) for state parks and outdoor recreation;

(f) to extend and consolidate by exchange, land or water rights suitable for these purposes.

(2) The department, with the consent of the ~~commission~~ board, may acquire by condemnation, as provided in Title 70, chapter 30, land or structures for the preservation of ~~historical~~ historic or archaeological sites that are threatened with destruction or alteration.

(3) (a) Subject to section 2(3), Chapter 560, Laws of 2005, the department, with the consent of the ~~commission~~ or the board, may dispose of land and water rights acquired by it on those terms after public notice as required by subsection (3)(b) of this section, without regard to other laws that provide for sale or disposal of state land and with or without reservation, as it considers necessary and advisable. The department, with the consent of the ~~commission~~ or the board, may convey department land and water rights for full market value to other governmental entities or to adjacent landowners without regard to the requirements of subsection (3)(b) or (3)(c) if the land is less than 10 acres or if the full market value of the interest to be conveyed is less than \$20,000. When the department conveys land or water rights to another governmental entity or to an adjacent landowner pursuant to this subsection, the department, in addition to giving notice pursuant to subsection (3)(b), shall give notice by mail to the landowners whose property adjoins the department property being conveyed.

(b) Subject to section 2(3), Chapter 560, Laws of 2005, notice of sale describing the land or water rights to be disposed of must be published once a week for 3 successive weeks in a newspaper with general circulation printed and published in the county where the land or water right is situated or, if a newspaper is not published in that county, then in any newspaper with general circulation in that county.

(c) The notice must advertise for cash bids to be presented to the director within 60 days from the date of the first publication. Each bid must be accompanied by a cashier's check or cash deposit in an amount equal to 10% of the amount bid. The highest bid must be accepted upon payment of the balance due within 10 days after mailing notice by certified mail to the highest bidder. If that bidder defaults on payment of the balance due, then the next highest bidders must be similarly notified in succession until a sale is completed. Deposits must be

returned to the unsuccessful bidders except bidders defaulting after notification.

(d) The department shall reserve the right to reject any bids that do not equal or exceed the full market value of the land or water right as determined by the department. If the department does not receive a bid that equals or exceeds fair market value, it may then sell the land or water rights at private sale. The price accepted on any private sale must exceed the highest bid rejected in the bid process.

(4) When necessary and advisable for the management and use of department property, the director is authorized to grant or acquire from willing sellers right-of-way easements for purposes of utilities, roads, drainage facilities, ditches for water conveyance, and pipelines if the full market value of the interest to be acquired is less than \$20,000. Whenever possible, easements must include a weed management plan. Approval of the commission or the board is not required for grants and acquisitions made pursuant to this subsection. In granting any right-of-way pursuant to this subsection, the department shall obtain a fair market value, but the department is not otherwise required to follow the disposal requirements of subsection (3). The director shall report any easement grant or acquisition made pursuant to this subsection to the commission or the board at its next regular meeting.

(5) The department shall convey land and water rights without covenants of warranty by deed executed by the governor or in the governor's absence or disability by the lieutenant governor, attested by the secretary of state and further countersigned by the director.

(6) Subject to 87-1-218, the department, with the consent of the commission, is authorized to utilize the installment contract method to facilitate the acquisition of wildlife management areas in which game and nongame fur-bearing animals and game and nongame birds may breed and replenish and areas that provide access to fishing sites for the public. The total cost of installment contracts may not exceed the cost of purchases authorized by the department and appropriated by the legislature.

(7) The department is authorized to enter into leases of land under its control in exchange for services to be provided by the lessee on the leased land.

(8) Approval of the board for the acquisition or disposal of land or water pursuant to this section is required only for land and water administered under Title 23, chapter 1, or Title 23, chapter 2, parts 1 and 4.
(Terminates June 30, 2013--sec. 8, Ch. 427, L. 2009.)

87-1-209. (Effective July 1, 2013) Acquisition and sale of lands or waters. (1) Subject to 87-1-218 and subsection (8) of this section, the department, with the consent of the commission or the board and, in the

case of land acquisition involving more than 100 acres or \$100,000 in value, the approval of the board of land commissioners, may acquire by purchase, lease, agreement, gift, or devise and may acquire easements upon lands or waters for the purposes listed in this subsection. The department may develop, operate, and maintain acquired lands or waters:

- (a) for fish hatcheries or nursery ponds;
- (b) as lands or water suitable for game, bird, fish, or fur-bearing animal restoration, propagation, or protection;
- (c) for public hunting, fishing, or trapping areas;
- (d) to capture, propagate, transport, buy, sell, or exchange any game, birds, fish, fish eggs, or fur-bearing animals needed for propagation or stocking purposes or to exercise control measures of undesirable species;
- (e) for state parks and outdoor recreation;
- (f) to extend and consolidate by exchange, lands or waters suitable for these purposes.

(2) The department, with the consent of the ~~commission~~ board, may acquire by condemnation, as provided in Title 70, chapter 30, lands or structures for the preservation of ~~historical~~ historic or archaeological sites that are threatened with destruction or alteration.

(3) (a) Subject to section 2(3), Chapter 560, Laws of 2005, the department, with the consent of the ~~commission~~ or the board, may dispose of lands and water rights acquired by it on those terms after public notice as required by subsection (3)(b) of this section, without regard to other laws that provide for sale or disposal of state lands and with or without reservation, as it considers necessary and advisable. The department, with the consent of the ~~commission~~ or the board, may convey department lands and water rights for full market value to other governmental entities or to adjacent landowners without regard to the requirements of subsection (3)(b) or (3)(c) if the land is less than 10 acres or if the full market value of the interest to be conveyed is less than \$20,000. When the department conveys land or water rights to another governmental entity or to an adjacent landowner pursuant to this subsection, the department, in addition to giving notice pursuant to subsection (3)(b), shall give notice by mail to the landowners whose property adjoins the department property being conveyed.

(b) Subject to section 2(3), Chapter 560, Laws of 2005, notice of sale describing the lands or waters to be disposed of must be published once a week for 3 successive weeks in a newspaper with general circulation printed and published in the county where the lands or waters are situated or, if a newspaper is not published in that county, then in any newspaper with general circulation in that county.

(c) The notice must advertise for cash bids to be presented to the director within 60 days from the date of the first publication. Each bid must be accompanied by a cashier's check or cash deposit in an amount equal to 10% of the amount bid. The highest bid must be accepted upon payment of the balance due within 10 days after mailing notice by certified mail to the highest bidder. If that bidder defaults on payment of the balance due, then the next highest bidders must be similarly notified in succession until a sale is completed. Deposits must be returned to the unsuccessful bidders except bidders defaulting after notification.

(d) The department shall reserve the right to reject any bids that do not equal or exceed the full market value of the lands and waters as determined by the department. If the department does not receive a bid that equals or exceeds fair market value, it may then sell the lands or water rights at private sale. The price accepted on any private sale must exceed the highest bid rejected in the bid process.

(4) When necessary and advisable for the management and use of department property, the director is authorized to grant or acquire from willing sellers right-of-way easements for purposes of utilities, roads, drainage facilities, ditches for water conveyance, and pipelines if the full market value of the interest to be acquired is less than \$20,000. Whenever possible, easements must include a weed management plan. Approval of the commission or the board is not required for grants and acquisitions made pursuant to this subsection. In granting any right-of-way pursuant to this subsection, the department shall obtain a fair market value, but the department is not otherwise required to follow the disposal requirements of subsection (3). The director shall report any easement grant or acquisition made pursuant to this subsection to the commission or the board at its next regular meeting.

(5) The department shall convey lands and water rights without covenants of warranty by deed executed by the governor or in the governor's absence or disability by the lieutenant governor, attested by the secretary of state and further countersigned by the director.

(6) Subject to 87-1-218, the department, with the consent of the commission, is authorized to utilize the installment contract method to facilitate the acquisition of wildlife management areas in which game and nongame fur-bearing animals and game and nongame birds may breed and replenish and areas that provide access to fishing sites for the public. The total cost of installment contracts may not exceed the cost of purchases authorized by the department and appropriated by the legislature.

(7) The department is authorized to enter into leases of land under its control in exchange for services to be provided by the lessee on the leased land.

(8) Approval of the board for the acquisition or disposal of land or water pursuant to this section is required only for land and water administered under Title 23, chapter 1, or Title 23, chapter 2, parts 1 and 4."

Section 28. Section 87-1-218, MCA, is amended to read:

"87-1-218. Notice of proposed land acquisitions. (1) For all land acquisitions proposed pursuant to 87-1-209, the department shall provide notice to the board of county commissioners in the county where the proposed acquisition is located.

(2) The notice must be provided at least 30 days before the proposed acquisition appears before the commission or the board for its consent.

(3) The notice must include:

(a) a description of the proposed acquisition, including acreage and the use proposed by the department;

(b) an estimate of the measures and costs the department plans to undertake in furtherance of the proposed use, including operating, staffing, and maintenance costs;

(c) an estimate of the property taxes payable on the proposed acquisition and a statement that if the department acquires the land pursuant to 87-1-603, the department would pay a sum equal to the amount of taxes that would be payable on the county assessment of the property if it was taxable to a private citizen; and

(d) a draft agenda of the meeting at which the proposed acquisition will be presented to the commission or the board and information on how the board of county commissioners may provide comment."

Section 29. Section 87-1-301, MCA, is amended to read:

"87-1-301. Powers of commission. (1) Except as provided in ~~subsection~~ subsections (7) and (8), the commission:

(a) shall set the policies for the protection, preservation, management, and propagation of the wildlife, fish, game, furbearers, waterfowl, nongame species, and endangered species of the state and for the fulfillment of all other responsibilities of the department related to fish and wildlife as provided by law;

(b) shall establish the hunting, fishing, and trapping rules of the department;

(c) except as provided in [section 2] and 87-1-303(3), shall establish the rules of the department governing the use of lands owned or controlled by the department and waters under the jurisdiction of the department;

(d) must have the power within the department to establish wildlife refuges and bird and game preserves;

(e) shall approve all acquisitions or transfers by the department of interests in land or water, except as provided in [section 2] and 87-1-209(4)(2) and (4);

(f) except as provided in [section 2], shall review and approve the budget of the department prior to its transmittal to the ~~budget~~ office of budget and program planning;

(g) except as provided in [section 2], shall review and approve construction projects that have an estimated cost of more than \$1,000 but less than \$5,000; and

(h) shall manage elk, deer, and antelope populations based on habitat estimates determined as provided in 87-1-322 and maintain elk, deer, and antelope population numbers at or below population estimates as provided in 87-1-323. In developing or implementing an elk management plan, the commission shall consider landowner tolerance when deciding whether to restrict elk hunting on surrounding public land in a particular hunting district. As used in this subsection (1)(h), "landowner tolerance" means the written or documented verbal opinion of an affected landowner regarding the impact upon the landowner's property within the particular hunting district where a restriction on elk hunting on public property is proposed.

(2) The commission may adopt rules regarding the use and type of archery equipment that may be employed for hunting and fishing purposes, taking into account applicable standards as technical innovations in archery equipment change.

(3) The commission may adopt rules regarding the establishment of special licenses or permits, seasons, conditions, programs, or other provisions that the commission considers appropriate to promote or enhance hunting by Montana's youth and persons with disabilities.

(4) (a) The commission may adopt rules regarding nonresident big game combination licenses to:

- (i) separate deer licenses from nonresident elk combination licenses;
- (ii) set the fees for the separated deer combination licenses and the elk combination licenses without the deer tag;
- (iii) condition the use of the deer licenses; and
- (iv) limit the number of licenses sold.

(b) The commission may exercise the rulemaking authority in subsection (4)(a) when it is necessary and appropriate to regulate the harvest by nonresident big game combination license holders:

- (i) for the biologically sound management of big game populations of elk, deer, and antelope;

(ii) to control the impacts of those elk, deer, and antelope populations on uses of private property; and

(iii) to ensure that elk, deer, and antelope populations are at a sustainable level as provided in 87-1-321 through 87-1-325.

(5) (a) Subject to the provisions of 87-2-115, the commission may adopt rules establishing license preference systems to distribute hunting licenses and permits:

(i) giving an applicant who has been unsuccessful for a longer period of time priority over an applicant who has been unsuccessful for a shorter period of time; and

(ii) giving a qualifying landowner a preference in drawings. As used in this subsection (5)(a), "qualifying landowner" means the owner of land that provides some significant habitat benefit for wildlife, as determined by the commission.

(b) The commission shall square the number of points purchased by an applicant per species when conducting drawings for licenses and permits.

(6) (a) The commission may adopt rules to:

(i) limit the number of nonresident mountain lion hunters in designated hunting districts; and

(ii) determine the conditions under which nonresidents may hunt mountain lion in designated hunting districts.

(b) The commission shall consider, but is not limited to consideration of, the following factors:

(i) harvest of lions by resident and nonresident hunters;

(ii) history of quota overruns;

(iii) composition, including age and sex, of the lion harvest;

(iv) historical outfitter use;

(v) conflicts among hunter groups;

(vi) availability of public and private lands; and

(vii) whether restrictions on nonresident hunters are more appropriate than restrictions on all hunters.

(7) The commission may not regulate the use or possession of firearms, firearm accessories, or ammunition, including the chemical elements of ammunition used for hunting. This does not prevent:

(a) the restriction of certain hunting seasons to the use of specified hunting arms, such as the establishment of special archery seasons;

(b) for human safety, the restriction of certain areas to the use of only specified hunting arms, including

bows and arrows, traditional handguns, and muzzleloading rifles;

(c) the restriction of the use of shotguns for the hunting of deer and elk pursuant to 87-6-401(1)(f);

(d) the regulation of migratory game bird hunting pursuant to 87-3-403; or

(e) the restriction of the use of rifles for bird hunting pursuant to 87-6-401(1)(g) or (1)(h).

(8) Pursuant to [section 2], the commission does not oversee department activities related to the administration of state parks, primitive parks, state recreational areas, public camping grounds, state historic sites, state monuments, and other heritage and recreational resources, land, and water administered pursuant to Title 23, chapter 1, and Title 23, chapter 2, parts 1, 4, and 9."

Section 30. Section 87-1-303, MCA, is amended to read:

"87-1-303. Rules for use of lands and waters. (1) Except as provided in [section 2], 87-1-301(7), and subsection (3) of this section, the commission may adopt and enforce rules governing uses of lands that are acquired or held under easement by the commission or lands that it operates under agreement with or in conjunction with a federal or state agency or private owner. The rules must be adopted in the interest of public health, public safety, and protection of property in regulating the use of these lands. All lease and easement agreements must itemize uses as listed in 87-1-209.

(2) Except as provided in 87-1-301(7), the commission may adopt and enforce rules governing recreational uses of all public fishing reservoirs, public lakes, rivers, and streams that are legally accessible to the public or on reservoirs and lakes that it operates under agreement with or in conjunction with a federal or state agency or private owner. These rules must be adopted in the interest of public health, public safety, public welfare, and protection of property and public resources in regulating swimming, hunting, fishing, trapping, boating, including but not limited to boating speed regulations, the operation of motor-driven boats, the operation of personal watercraft, the resolution of conflicts between users of motorized and nonmotorized boats, waterskiing, surfboarding, picnicking, camping, sanitation, and use of firearms on the reservoirs, lakes, rivers, and streams or at designated areas along the shore of the reservoirs, lakes, rivers, and streams. Areas regulated pursuant to the authority contained in this section must be areas that are legally accessible to the public. These rules are subject to review and approval by the department of public health and human services with regard to issues of public health and sanitation before becoming effective. Copies of the rules must show that endorsement.

(3) (a) The commission may not regulate or classify domestic livestock trailing as a commercial activity

or commercial use that is subject to licensing, permitting, or fee requirements. Domestic livestock trailing on land owned or controlled by the department is exempt from the requirements of Title 75, chapter 1, parts 1 through 3.

(b) The commission may authorize domestic livestock trailing across land owned or controlled by the department that is designated as a wildlife management area. The commission may adopt rules governing the timing of and the route to be used for domestic livestock trailing activities to the extent that the rules are necessary both to enable the trailing of domestic livestock across the designated wildlife management area and to protect and enhance state lands. The rules may not:

- (i) require a fee for domestic livestock trailing or related activities; or
- (ii) prohibit or unreasonably interfere with domestic livestock trailing activities.

(4) For the purposes of this section, the following definitions apply:

(a) "Domestic livestock" means domestic animals kept for farm and ranch purposes, including but not limited to horses, cattle, sheep, goats, and dogs.

(b) "Domestic livestock trailing" means the entering upon and crossing of department lands and the use of the lands for forage by domestic livestock for a maximum of 96 consecutive hours."

Section 31. Section 87-1-401, MCA, is amended to read:

"87-1-401. Director to carry out policies. The director shall carry out the policies of the commission and the board and shall adopt rules authorized by law to implement those policies."

Section 32. Section 87-1-622, MCA, is amended to read:

"87-1-622. Forest management plan -- sustainable yield study required -- definition. (1) The commission and the board shall adopt a forest management ~~plan~~ plans for lands under their jurisdiction, based on an annual sustainable yield, to implement the provisions of 87-1-201(9)(a)(iv).

(2) The department, under the direction of the commission, shall, before July 1, 2012, commission a study by a qualified independent third party to determine, using scientific principles, the annual sustainable yield on forested department lands. The department shall direct the qualified independent third party to determine the annual sustainable yield pursuant to all state and federal laws.

(3) The annual timber sale requirement for the timber sale program administered by the department to

address fire mitigation, pine beetle infestation, and wildlife habitat enhancement may not exceed the annual sustainable yield.

(4) The commission and the board shall review and redetermine the annual sustainable yield for lands under their jurisdiction at least once every 5 years.

(5) Expenditures necessary to meet the requirements of this section are authorized to be made by the department pursuant to 87-1-601.

(6) For the purposes of this section, the term "annual sustainable yield" means the quantity of timber that can be harvested from forested department lands each year, taking into account the ability of forested lands to generate replacement tree growth and in accordance with:

- (a) the provisions of 87-1-201(9)(a)(iv);
- (b) state and federal laws, including but not limited to the laws pertaining to wildlife, recreation, and maintenance of watersheds; and
- (c) water quality standards that protect fisheries and aquatic life and that are adopted under the provisions of Title 75, chapter 5."

Section 33. Section 87-4-432, MCA, is amended to read:

"87-4-432. Alternative livestock advisory council -- appointment of members -- duties. (1) There is an alternative livestock advisory council to advise the department on the administration of alternative livestock ranches in this state.

(2) The alternative livestock advisory council is composed of five members, appointed by the governor as follows:

- (a) one member of the board of livestock or the department of livestock;
- (b) one member of the fish, and wildlife, ~~and parks~~ commission or the department;
- (c) one member who is a representative of the alternative livestock industry;
- (d) one member who is a veterinarian licensed to practice veterinary medicine in this state; and
- (e) one member who is a representative of the sportspersons of Montana.

(3) Members of the alternative livestock advisory council shall serve staggered 2-year terms. A member may serve one additional consecutive 2-year term.

(4) The alternative livestock advisory council is attached to the department and the department of

livestock in an advisory capacity only, as defined in 2-15-102. The department and the department of livestock shall provide staff support and assistance necessary for the council to perform its functions."

Section 34. Name change -- directions to code commissioner. (1) Unless otherwise provided, wherever a reference to the fish, wildlife, and parks commission, meaning the commission established in 2-15-3402, appears in legislation enacted by the 2013 legislature that refers to functions of the commission related to fish and wildlife, the code commissioner is directed to change it to an appropriate reference to the fish and wildlife commission.

(2) Unless otherwise provided, wherever a reference to the fish, wildlife, and parks commission, meaning the commission established in 2-15-3402, appears in legislation enacted by the 2013 legislature that refers to functions of the commission related to state parks or recreational resources under Title 23, chapter 1, and Title 23, chapter 2, parts 1, 4, and 9, the code commissioner is directed to change it to an appropriate reference to the state parks and recreation board.

Section 35. Codification instruction. (1) [Section 1] is intended to be codified as an integral part of Title 2, chapter 15, part 34, and the provisions of Title 2, chapter 15, part 34, apply to [section 1].

(2) [Section 2] is intended to be codified as an integral part of Title 23, chapter 1, part 1, and the provisions of Title 23, chapter 1, part 1, apply to [section 2].

Section 36. Coordination instruction. If both House Bill No. 392 and [this act] are passed and approved, then [section 1] of House Bill No. 392, amending 22-3-432, is void and 22-3-432 must be amended as follows:

"22-3-432. Antiquities permits. (1) A person may not excavate, remove, or restore any heritage property or paleontological remains on lands owned by the state without first obtaining an antiquities permit from the historic preservation officer.

(2) Antiquities permits are to be granted only after careful consideration of the application for a permit and after consultation with the appropriate state agency. Permits are subject to strict compliance with the following guidelines:

(a) Antiquities permits may be granted only for work to be undertaken by reputable museums,

universities, colleges, or other historical, scientific, or educational institutions, societies, or persons with a view toward dissemination of knowledge about cultural properties, provided a permit may not be granted unless the historic preservation officer is satisfied that the applicant possesses the necessary qualifications to guarantee the proper excavation of those sites and objects that may add substantially to knowledge about Montana and its antiquities.

(b) The antiquities permit must specify that a summary report of the investigations, containing relevant maps, documents, drawings, and photographs, must be submitted to the historic preservation officer. The historic preservation officer shall determine the appropriate time period allowable between all work undertaken and submission of the summary report.

(3) ~~All~~ Except as provided in subsection (5), all heritage property and paleontological remains collected under an antiquities permit are the permanent property of the state and must be deposited in museums or other institutions within the state or loaned to qualified institutions outside the state, unless otherwise provided for in the antiquities permit.

(4) An antiquities permit is not a substitution for any other type of permit that a state agency may require for other purposes.

(5) Antiquities permits may be granted for the excavation and removal of paleontological remains at Makoshika state park for the purpose of selling the paleontological remains and using revenue from the sale to benefit Makoshika state park. Antiquities permits granted under this subsection must be used in accordance with rules adopted pursuant to [section 2(2) of House Bill No. 24]."

Section 37. Coordination instruction. If both House Bill No. 392 and [this act] are passed and approved, then [section 2] of House Bill No. 392, amending 23-1-102, is void and [section 2 of this act] must read as follows:

"NEW SECTION. **Section 2. Powers and duties of board -- rulemaking -- meetings.** (1) Except as provided in subsection (2), for state parks, primitive parks, state recreational areas, public camping grounds, state historic sites, state monuments, and other heritage and recreational resources, land, and water administered pursuant to Title 23, chapter 1, and Title 23, chapter 2, parts 1, 4, and 9, the board shall:

(a) set the policies and provide direction to the department for:

(i) the management, protection, conservation, and preservation of these properties, lands, and waters

and their appropriate role relative to tourism and the economic health of Montana;

(ii) coordinating, integrating, promoting, and furthering opportunities for education and recreation at these sites, including but not limited to camping, hiking, snowmobiling, off-highway vehicle use, horseback riding, mountain biking, boating, and swimming;

(b) work with the commission to maintain hunting and angling opportunities on these lands and waters;

(c) establish the rules of the department governing the use of these properties and lands. The rules must be adopted in the interest of public health, public safety, public welfare, and protection of property and public resources in regulating recreation, including picnicking, camping, and swimming, and sanitation. These rules are subject to review and approval by the department of public health and human services with regard to issues of public health and sanitation before becoming effective. Copies of the rules must show that endorsement.

(d) review and approve all acquisitions or transfers of interest in these properties, lands, and waters by the department, except as provided in 87-1-209(4);

(e) review and approve the budget of the department for the administration of these properties, lands, and waters prior to its transmittal to the office of budget and program planning;

(f) review and approve construction projects that have an estimated cost of more than \$5,000;

(g) work with local, state, and federal agencies to evaluate, integrate, coordinate, and promote recreational opportunities statewide; and

(h) encourage citizen involvement in management planning for these properties, lands, and waters.

(2) The board may adopt rules establishing conditions for the use of antiquities permits granted pursuant to 22-3-432(5).

(3) Pursuant to 87-1-301(1), the board does not oversee department activities related to the administration of fishing access sites.

(4) The members of the board shall hold quarterly or other meetings for the transaction of business at times and places considered necessary and proper. The meetings must be called by the presiding officer or by a majority of the board and must be held at the time and place specified in the call for the meeting. A majority of the members constitutes a quorum for the transaction of any business. The board shall keep a record of all the business it transacts. The presiding officer and secretary shall sign all orders, minutes, or documents for the board."

Section 38. Coordination instruction. If both Senate Bill No. 237 and [this act] are passed and approved and if both amend 23-1-102, then the sections amending 23-1-102 are void and 23-1-102 must be amended as follows:

"23-1-102. Powers and duties of department of fish, wildlife, and parks. (1) The department shall make a study to determine the scenic, historic, archaeological, scientific, and recreational resources of the state. ~~The Subject to 87-1-209, the department may:~~

(a) by purchase, lease, agreement, or acceptance of donations acquire for the state any areas, sites, or objects that in its opinion should be held, improved, and maintained as state parks, state recreational areas, state monuments, or state ~~historical~~ historic sites; ~~The department, with the consent of the commission, may~~

(b) with the consent of the board, acquire by condemnation, pursuant to Title 70, chapter 30, lands or structures for the purposes provided in 87-1-209(2); and

~~(2)(c) The department may~~ accept in the name of the state, in fee or otherwise, any areas, sites, or objects conveyed, entrusted, donated, or devised to the state.

~~(2) #~~ The department may accept gifts, grants, bequests, or contributions of money or other property to be spent or used for any of the purposes of this part.

(3) A contract, for any of the purposes of this part, may not be entered into or another obligation incurred until money has been appropriated by the legislature or is otherwise available. ~~If the contract or obligation pertains to acquisition of areas or sites in excess of either 100 acres or \$100,000 in value, the board of land commissioners shall specifically approve the acquisition.~~

(4) The department has jurisdiction, custody, and control of all state parks, recreational areas, public camping grounds, ~~historical~~ historic sites, and monuments, except wayside camps and other public conveniences acquired, improved, and maintained by the department of transportation and contiguous to the state highway system. The department may designate lands under its control as state parks, state ~~historical~~ historic sites, or state monuments; or by any other designation that it considers appropriate. The department may remove or change the designation of any area or portion of an area and may name or change the name of any area. The department may lease those portions of designated lands that are necessary for the proper administration of the lands in keeping with the basic purpose of this part."

Section 39. Coordination instruction. If Both Senate Bill No. 344 and [this act] are passed and

approved, then [section 9 of this act], amending 23-1-102, is void and 23-1-102 must be amended as follows:

"23-1-102. Powers and duties of department of fish, wildlife, and parks. (1) The department shall make a study to determine the scenic, historic, archaeological, scientific, and recreational resources of the state. ~~The~~ Subject to 87-1-209, the department may:

(a) by purchase, lease, agreement, or acceptance of donations acquire for the state any areas, sites, or objects that in its opinion should be held, improved, and maintained as state parks, state recreational areas, state monuments, or state ~~historical~~ historic sites; ~~The department, with the consent of the commission, may~~

(b) with the consent of the board, acquire by condemnation, pursuant to Title 70, chapter 30, lands or structures for the purposes provided in 87-1-209(2); and

~~(2)(c) The department may~~ accept in the name of the state, in fee or otherwise, any areas, sites, or objects conveyed, entrusted, donated, or devised to the state.

(2) ~~†~~ The department may accept gifts, grants, bequests, or contributions of money or other property to be spent or used for any of the purposes of this part.

(3) A contract, for any of the purposes of this part, may not be entered into or another obligation incurred until money has been appropriated by the legislature or is otherwise available. ~~If the contract or obligation pertains to acquisition of areas or sites in excess of either 100 acres or \$100,000 in value, the board of land commissioners shall specifically approve the acquisition.~~

(4) The department has jurisdiction, custody, and control of all state parks, recreational areas, public camping grounds, ~~historical~~ historic sites, and monuments, except wayside camps and other public conveniences acquired, improved, and maintained by the department of transportation and contiguous to the state highway system. The department may designate lands under its control as state parks, state ~~historical~~ historic sites, or state monuments; or by any other designation that it considers appropriate. The department may remove or change the designation of any area or portion of an area and may name or change the name of any area. The department may lease those portions of designated lands that are necessary for the proper administration of the lands in keeping with the basic purpose of this part."

Section 40. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

Section 41. Effective date. [This act] is effective July 1, 2013.

- END -

I hereby certify that the within bill,
HB 0024, originated in the House.

Chief Clerk of the House

Speaker of the House

Signed this _____ day
of _____, 2013.

President of the Senate

Signed this _____ day
of _____, 2013.

HOUSE BILL NO. 24
INTRODUCED BY D. ANKNEY
BY REQUEST OF THE ENVIRONMENTAL QUALITY COUNCIL

AN ACT CREATING THE STATE PARKS AND RECREATION BOARD; PROVIDING POWERS AND DUTIES; GRANTING RULEMAKING AUTHORITY; RENAMING THE FISH, WILDLIFE, AND PARKS COMMISSION; AMENDING SECTIONS 2-15-3110, 2-15-3113, 2-15-3401, 2-15-3402, 2-15-3404, 23-1-101, 23-1-102, 23-1-106, 23-1-108, 23-1-110, 23-1-121, 23-1-122, 23-2-301, 23-2-403, 23-2-404, 23-2-408, 23-2-410, 37-47-310, 75-1-220, 77-1-405, 85-2-102, 87-1-101, 87-1-106, 87-1-202, 87-1-209, 87-1-218, 87-1-301, 87-1-303, 87-1-401, 87-1-622, AND 87-4-432, MCA; AND PROVIDING AN EFFECTIVE DATE.

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 63rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON NATURAL RESOURCES

Call to Order: Chair Gerald (Jerry) Bennett, on January 16, 2013 at 3:00 PM, in Room 172 Capitol

ROLL CALL

Members Present:

Rep. Gerald (Jerry) Bennett, Chair (R)
Rep. Virginia Court, Vice Chair (D)
Rep. Alan Doane (R)
Rep. Jennifer Eck (D)
Rep. Steve Fitzpatrick (R)
Rep. Wylie Galt (R)
Rep. Brian Hoven (R)
Rep. Ed Lieser (D)
Rep. Ryan Lynch (D)
Rep. Mike Miller (R)
Rep. JP Pomnichowski (D)
Rep. Wendy Warburton (R)
Rep. Kerry White (R)
Rep. Kathleen Williams (D)

Members Excused: Rep. Pat Connell, Vice Chair (R)
Rep. Ray L. Shaw (R)

Members Absent: None

Staff Present: Colleen Dever, Committee Secretary
Joe Kolman, Legislative Branch

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted: HB 24, 1/15/2013; HB 37, 1/15/2013

00:10:49 Chair Bennett

HEARING ON HB 37

Opening Statement by Sponsor:

00:12:38 Rep. Bill McChesney (D), HD 40, opened the hearing on HB 37, Allow temporary leasing of water rights.

[EXHIBIT\(nah08a01\)](#)

Proponents' Testimony:

00:15:20 Tim Davis, Administrator, Water Resources Division, Department of Natural Resources and Conservation (DNRC)

00:20:24 Krista Lee Evans, Senior Water Rights Coalition (SrWRC); Association of Gallatin Agricultural Irrigators (AGAI), Montana Farmers' Union (MFU); Montana Stock Growers' Association (MSGA)

00:22:24 Dave Galt, Executive Director, Montana Petroleum Association (MPA)

00:24:11 Mike Murphy, Water Rights Association (WRA)

00:24:52 Tom Hopgood, Montana Mining Association (MMA)

00:29:24 John Youngberg, Montana Farm Bureau (MFB)

00:30:51 Holly Franz, Pennsylvania Power & Light-Montana (PPL Montana)

Opponents' Testimony:

00:33:44 Charyn Ayoub, Northern Plains Resource Council (NPRC)

[EXHIBIT\(nah08a02\)](#)

Informational Testimony: None

Questions from Committee Members and Responses:

00:37:12 Rep. Miller

00:37:17 Mr. Davis, DNRC

00:37:20 Rep. Miller

00:37:32 Mr. Davis, DNRC

00:37:50 Rep. Miller

00:38:16 Mr. Davis, DNRC

00:38:57 Rep. Miller

00:39:06 Rep. Hoven

00:39:08 Mr. McChesney

00:39:10 Rep. Hoven

00:39:32 Rep. McChesney

00:39:56 Rep. Hoven

00:40:30 Rep. McChesney

00:40:41 Ms. Evans, SrWRC

00:41:46 Rep. Lieser

00:42:24 Ms. Franz, PPL Montana

00:43:19 Rep Galt

00:43:25 Mr. Davis, DNRC

00:43:33 Rep. Galt

00:43:57 Mr. Davis, DNRC

00:44:31 Rep. White

00:45:14 Mr. Davis, DNRC

00:45:28 Rep. Pomnichowski
 00:46:10 Mr. Davis, DNRC
 00:46:46 Rep. Pomnichowski
 00:47:14 Mr. Davis, DNRC
 00:47:47 Rep. Pomnichowski
 00:48:22 Mr. Davis, DNRC
 00:49:00 Rep. Pomnichowski
 00:49:52 Mr. Davis, DNRC
 00:50:53 Rep. Pomnichowski
 00:51:18 Mr. Davis, DNRC
 00:52:03 Rep. Pomnichowski
 00:52:14 Mr. Davis, DNRC

EXHIBIT(nah08a03)

00:52:20 Rep. Pomnichowski
 00:52:51 Mr. Hopgood, MMA
 00:53:53 Rep. Williams
 00:54:24 Mr. Davis, DNRC
 00:54:36 Rep. Williams
 00:54:58 Mr. Davis, DNRC
 00:56:29 Rep Williams
 00:57:17 Mr. Davis, DNRC
 00:57:29 Rep Williams
 00:57:39 Mr. Davis, DNRC
 00:58:01 Rep. Williams
 00:58:16 Mr. Davis, DNRC
 00:58:29 Rep. Williams
 00:58:41 Mr. Galt, MPA
 00:58:45 Rep. Williams
 00:58:50 Mr. Galt, MPA

Closing by Sponsor:

00:59:20 Rep. McChesney

HEARING ON HB 24

Opening Statement by Sponsor:

01:02:07 Rep. Duane Ankney (R), HD 43, opened the hearing on HB 24, Create state parks and recreation board.

Proponents' Testimony:

01:10:05 Sen. Keane, SD 38
 01:14:19 Bob Walker, Our Montana (OM)
 01:19:10 Chere Jiusto Executive Director, Montana Preservation Alliance (MPA)

EXHIBIT(nah08a04)

EXHIBIT(nah08a05)

01:22:52 Chris Puyear, Montana Lodging and Hospitality Association (MLHA)
 01:23:57 Bruce Reiersen, President, Montana Trail Vehicle Riders Association (MTVRA)
 01:27:30 Ronna Alexander, Montana Snowmobile Association (MSA)
 01:28:42 Russ Ehnes, President, Great Falls Trail Bike Riders Association (GFTBRA)
 01:31:07 Melinda Barnes, Executive Director, Bike-Walk Montana

01:33:12 Amy Teegarden, President-Elect, Montana Recreation & Park Association
(MRPA)
01:35:40 Doug Abelin, Self

Opponents' Testimony:

01:36:41 George Golie, Montana Wildlife Federation (MWF)
01:41:50 Mike Mehn, Self
01:43:43 Rod Bullis, Self
01:46:07 Mike Ottman, Self

Informational Testimony:

01:50:45 Chas Van Genderen, Administrator, Parks Division, Department of Fish, Wildlife
& Parks (FWP)

EXHIBIT(nah08a06)

01:52:39 Sam Milodragovich, Montana Sportsmen Alliance (MSA)

EXHIBIT(nah08a07)

Questions from Committee Members and Responses:

01:57:05 Rep. Warburton
01:57:16 Mr. Golie, MWF
01:57:21 Rep. Warburton
01:57:33 Mr. Golie, MWF
01:57:38 Rep. Warburton
01:57:44 Mr. Golie, MWF
01:57:55 Rep. Warburton
01:58:06 Mr. Golie, MWF
01:58:44 Rep. Warburton
01:58:53 Mr. Golie, MWF
01:59:21 Rep. White
01:59:26 Rep. Ankney
01:59:30 Rep. White
02:00:04 Mr. Golie, MWF
02:00:51 Mr. Van Genderen, FWP
02:01:22 Rep. Lynch
02:01:42 Rep. Ankney
02:03:25 Chair Bennett
02:03:29 Rep. Pomnichowski
02:03:36 Mr. Van Genderen, FWP
02:03:42 Rep. Pomnichowski
02:03:59 Mr. Van Genderen, FWP
02:04:58 Rep. Pomnichowski
02:05:02 Rep. Ankney
02:05:07 Rep. Pomnichowski
02:05:23 Rep. Ankney
02:06:16 Rep. Pomnichowski
02:06:21 Rep. Ankney
02:06:26 Rep. Pomnichowski
02:06:33 Rep. Pomnichowski
02:06:37 Mr. Van Genderen, FWP
02:07:49 Rep. Pomnichowski

02:08:30 Mr. Van Genderen, FWP
02:09:30 Rep. Pomnichowski
02:09:53 Mr. Van Genderen, FWP
02:10:41 Rep. Pomnichowski
02:11:00 Mr. Van Genderen, FWP
02:11:40 Rep. Pomnichowski
02:12:02 Mr. Van Genderen
02:12:18 Rep. Pomnichowski
02:12:33 Rep. Hoven
02:14:16 Mr. Van Genderen, FWP
02:14:27 Rep. Warburton
02:14:42 Mr. Van Genderen, FWP
02:14:54 Rep. Warburton
02:15:29 Mr. Van Genderen, FWP
02:16:02 Mr. Kolman, Legislative Services Division (LSD)
02:17:34 Rep. Eck
02:18:05 Mr. Kolman, LSD
02:18:30 Rep. Eck
02:18:34 Mr. Kolman, LSD
02:18:42 Rep. Ankney

Closing by Sponsor:

02:19:25 Rep. Ankney, HD 43

02:25:32 Chair Bennett

ADJOURNMENT

Adjournment: 02:25:45

Colleen Dever, Secretary

cd

Additional Documents:

EXHIBIT([nah08aad.pdf](#))



2013 Session

Exhibit: 5

This exhibit is a booklet that cannot be scanned in its entirety therefore only a copy of the front page and the table of contents have been scanned to aid you in your research.

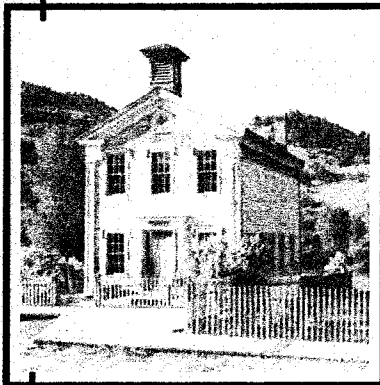
The original exhibits are on file at the Montana Historical Society and may be viewed there.

**Montana Historical Society
Archives
225 N. Roberts
Helena MT 59620-1201
2013 Legislative Scanner Susie Hamilton**

EXHIBIT 5
DATE 1.16.13
HB 24

HJR 32

A Study of State Parks, Outdoor Recreation, and Heritage Resource Programs



**A report to the 63rd Legislature
October 2012**

Environmental Quality Council
P.O. Box 201704
Helena, MT 59620-1704
Phone: (406) 444-3742

Fax: (406) 444-3971
<http://leg.mt.gov/eqc>

Prepared by Hope Stockwell

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Appendix V: LC 9002	V-1
Appendix W: LC 9010	W-1



Chere Jiusto, Montana Preservation Alliance

120 Reeder's Alley, Helena, MT 59601

Support for HB24, And Act establishing a separate state parks and recreation board within the FWP agency.

DATE 1.16.13
HB 24

State Parks is an agency that has an enormous mandate, managing 54 parks across the 4th largest state in the nation. These are the places that we Montanans have agreed are special, and we want everyone to be able to visit and enjoy – Flathead Lake, Yellowstone river, Pictograph Cave... They take the assignment seriously, and with limited staff and funds, they put in a great effort. Roughly half of the state parks are historic or cultural – these are treasures: Bannack, Pictograph Caves, Mikoshika, Giant Springs, First People's Buffalo Jump. Among them are 7 National Historic Landmarks and at least 2 or 3 more of that caliber. In short, these are our state's greatest cultural treasures.

In recent years, state parks programs around the country have been threatened. In 2010, Arizona moved to close 13 of their parks, that same year California launched a series of budget cuts that have shuttered many parks in that state as well. Sadly, Montana is looking down that same road, and the parks division has divested itself in recent years of Parker Homestead, Citadel Rock, and is considering turning one of most outstanding landmark parks – the Madison Buffalo Jump – back to DNRC, an agency ill-prepared to manage a cultural park of this magnitude.

To those who hesitate to add a separate board to the agency, please consider the size and scope of the wildlife responsibilities of the agency. Within the agency and within the Fish, Wildlife and Parks Commission, parks issues are often overshadowed by very real and serious management discussions relating to hunting regulation, wolves, habitat losses, endangered species, fisheries management and more. In ways this is similar to the MT Historical Society and their separate State Historic Preservation Review Board. And in a perfectly timed example, the SHPO and board just completed a state-wide account of historic buildings that are managed by all agencies and issued this summary as a report card on how they are faring.

This bill is a move toward systematic review by the parks system, and once created, one of the first tasks of this appointed board should be a review of state parks, how they are managed and funded, and an action plan to do better. Along with a clear set of protocols for what the state acquires, how the parks are managed, scrutiny over the agency budget, and identifying outside partners to support park operations. Beyond this, the next bill should include mechanism for structural change that adequately funds the parks end of the agency, its staff, operations and maintenance of the resources.

This is not a novel idea, the state has been creating plans for betterment of parks since at least 1990. But is a smart idea, and we urge you to create the authority for state parks to do better, as they manage our most well-loved places for all of us, and for future generations. We hope you will join us in support of agency efforts to improve, and we urge a do-pass on this bill.

January 16, 2013



EXHIBIT 6
DATE 1.16.13
HB 24

House Bill 24
January 16, 2013
Presented by Chas Van Genderen
House Natural Resources Committee

Mr. Chairman and committee members, I am Chas Van Genderen, Parks Division Administrator of the Montana Department of Fish, Wildlife and Parks (FWP). I am here to provide information on House Bill 24.

Montana State Parks manages 54 state parks and also manages grant and safety programs including the Recreational Trails Program using federal funds for trails and related recreation, OHV grants for trail maintenance and management, Snowmobile grants for grooming and maintenance, and the community grant side of the Land and Water Conservation Fund. These are important programs to citizens and we work with city county, state, federal and not for profit organizations to help promote and coordinate recreation around the state.

According to a 2010, survey by the bureau of business and economic research at the U of M Montana State parks had an economic impact of \$289 million in visitor spending and supported 1,600 jobs annually in tourism related areas.

Last year we hosted 2.0 million visits to state parks and had an increased demand for grants at the local state and federal levels.

As an agency FWP takes its role in recreation management seriously. Managing resources everyone loves is an important and challenging endeavor we have executed effectively. I am happy to answer any questions you may have on this topic.

SPEAKING POINTS HB 24

Montana Sportsmen's Alliance

Sam Milodragovich
Butte

MSA appreciates the opportunity to offer comments on this bill.

- The bill is redundant as it builds yet another bureaucracy to deal with FWP lands and policies that have been successfully handled by the FWP Commission for 40 years, and increases the size of government when we are trying to shrink it.
- The FWP Director, who oversees all FWP programs, would not have a seat on the Parks Board. Rather, possibly in conflict with other statutes that authorize and operate FWP.
-
- The Fiscal note states that the cost for this bill is \$9,000 which covers the costs of the Board to be established. However, it doesn't identify long-term costs to sustain the Board and its operations as well as the impacts on other FWP Divisions.
- Many of the Parks were purchased with hunting and fishing license dollars used in many cases to match federal LWCF dollars. LWCF funds come with restrictions that HB-24 seems to violate.
-
- For instance in the bill, Camp Baker/Eden Bridge is moved to Parks oversight. However, it was originally purchased with Fishing Access Site funds which are fishing license dollars.
-
- HB 24 takes Water Safety funds and authority away from the Law Enforcement Division which has handled and developed professional expertise in this area for over 40 years. Wardens are trained in swift and cold water rescue, boat accident investigation and teach boating safety with the Coast Guard Auxiliary
-
- They are good at their job. In the past 10 years, 2 wardens have received Governor's Medals of Valor for performing life-threatening water rescues; another two have been recognized as Boating Law Enforcement Officers of the Year by the Western States Boating Administrators, a national water safety organization.
- This bill gives oversight to the Board of all waters on and adjacent to Parks properties, thus placing one more regulation-making organizational authority (as well as the subsequent rules and regulations) on the state's waterways increasing confusion for the public with multiple agencies operating simultaneously.

- Flathead Lake would be under this Board *and* the FWP Commission for making and enforcing rules such as no-wake zones, etc. Again, the resulting regulatory redundancy would pose problems not only for the agency but perhaps, more importantly, confusion for the user public with multiple jurisdictions operating simultaneously on the same water body.
- The bill initially appears to give authority to Parks only for waters adjacent or within the boundaries of state Parks. Yet, in other places it puts all Water Safety/Boat authority/activities as well as snowmobiles, and OHV's under Parks. The result would be a direct loss to the Enforcement Division of the annual funds to operate these programs: Coast Guard funding \$354,042 (3.72 FTE); Boat Decal .91 FTE) \$92,532; Snowmobile \$99,049 (.75 FTE); Off-Road Vehicle \$55,954 (.60 FTE). A total of \$618,150
-
- Parks does not have the enforcement capability to oversee these responsibilities statewide, which could put federal funding - that is, Coast Guard monies, in jeopardy as the Coast Guard demands a formal, statewide water safety and education program to maintain funding which is a 50-50 match.
-
- The continued utilization of so-called Park Wardens as established by Parks creates unnecessary costs to build and maintain a second, redundant law enforcement entity within FWP. These positions are not supervised by law enforcement personnel and have been problematic from the time of their establishment and raise serious liability issues. They were implemented contrary to FWP Legal Unit as well as state Attorney General advice and opinion.
-
- 5 of these positions in the state. Their authority is supposedly restricted to the physical boundaries of their respective State Parks with no LE supervision presenting liability training, and operational issues.
-
- In a rural state LE agencies have to help each other out. Parks people with authority limited to park boundaries will limit the effectiveness of Mutual Aid agreements

BUSINESS REPORT

**MONTANA HOUSE OF REPRESENTATIVES
63rd LEGISLATURE - REGULAR SESSION**

HOUSE NATURAL RESOURCES COMMITTEE

Date: Wednesday, January 16, 2013
Place: Capitol

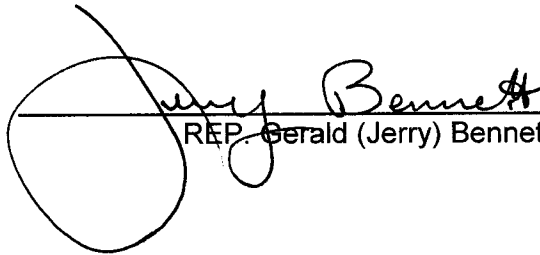
Time: 3:00 PM
Room: 172

BILLS and RESOLUTIONS HEARD:

HB 24 - Create state parks and recreation board - Duane Ankney
HB 37 - Allow temporary leasing of water rights - Bill McChesney

EXECUTIVE ACTION TAKEN: None

Comments:


REP. Gerald (Jerry) Bennett, Chair

HOUSE OF REPRESENTATIVES
Roll Call
NATURAL RESOURCES COMMITTEE

DATE: 1.16.13

<u>NAME</u>	PRESENT	ABSENT/EXCUSED
REP. PAT CONNELL, VICE CHAIR		<i>Excused</i>
REP. VIRGINIA COURT, VICE CHAIR	✓	
REP. ALAN DOANE	✓	
REP. JENNY ECK	✓	
REP. STEVE FITZPATRICK	✓	
REP. WYLIE GALT	✓	
REP. BRIAN HOVEN	✓	
REP. ED LIESER	✓	
REP. RYAN LYNCH	✓	
REP. MIKE MILLER	✓	
REP. JP POMNICHOWSKI	✓	
REP. RAY SHAW		<i>Excused</i>
REP. WENDY WARBURTON	✓	
REP. KERRY WHITE	✓	
REP. KATHLEEN WILLIAMS	✓	
REP. JERRY BENNETT, CHAIR	✓	

HOUSE NATURAL RESOURCES COMMITTEE

Sponsor: **Representative Bill McChesney**

PLEASE PRINT

[illegible]

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

Y

1000 A.M.

1000 A.M.

Y

1000 A.M.

1000 A.M.

MONTANA House of Representatives
Visitors Register
HOUSE NATURAL RESOURCES COMMITTEE

Wednesday, January 16, 2013

HB 24 - Create state parks and recreation board

Sponsor: Representative Duane Ankney

PLEASE PRINT

Name	Representing	Support	Oppose
Rod Bullis	Self		X
Bob Walker	Our Montana	X	
Ramona Ehnes	Self	X	
Kathy Jeffords	Beaull. County GFF Road User Assoc.	X	
Russ Ehnes	GFTBRA	X	
Paula Abelin	CTVA-MTVRA	X	
Mike Jeffords	RCOROA	X	
Amy Teegarden	MT Rec & Park Assoc.	X	
Chris Puxear	MLHA	X	
Paul Koch	CTVA	X	
George Golie	MWF		X
Michael F. Othman	Self		X
Mike Melan	Self		X
Chas. La. Cole	FWP		
Gonna Alexander	MT Snowmobile Assoc.	X	
Sam Miodragovich	Montana Sportsmen Alliance		
Donna	MTA	X	
Joe Stene			
Chere Trusto	MT Preservation Alliance	X	
Bob Gilbert	Walleys Unlimited	X	

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 63rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON NATURAL RESOURCES

Call to Order: Chair Gerald (Jerry) Bennett, on January 25, 2013 at 2:30 P.M., in Room 172 Capitol

ROLL CALL

Members Present:

Rep. Gerald (Jerry) Bennett, Chair (R)
Rep. Pat Connell, Vice Chair (R)
Rep. Virginia Court, Vice Chair (D)
Rep. Alan Doane (R)
Rep. Jennifer Eck (D)
Rep. Steve Fitzpatrick (R)
Rep. Wylie Galt (R)
Rep. Brian Hoven (R)
Rep. Ed Lieser (D)
Rep. Ryan Lynch (D)
Rep. Mike Miller (R)
Rep. JP Pomnichowski (D)
Rep. Ray L. Shaw (R)
Rep. Wendy Warburton (R)
Rep. Kerry White (R)
Rep. Kathleen Williams (D)

Members Excused: Rep. Wendy Warburton

Members Absent: None

Staff Present: Colleen Dever, Committee Secretary
Joe Kolman, Legislative Branch

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted: HB 244, 1/25/2013; HB 248, 1/25/2013; HJ 8, 1/25/2013
Executive Action: HB 24, HB 106, HB 37

00:22:54 Chair J. Bennett

EXECUTIVE ACTION ON HB 24

00:23:41 **Motion:** Rep. Connell moved that **HB 24 DO PASS.**

Discussion:

00:24:04 Chair J. Bennett

00:25:57 **Motion:** Rep. White moved that **HB 24 BE AMENDED.**

EXHIBIT(nah16a01)

Discussion:

00:26:18 Joe Kolman, Legislative Services Division (LSD)

00:35:25 Rep. Williams

00:35:58` Chair J. Bennett

00:36:03 Rep. Williams

00:36:00 Chair J. Bennett

00:36:18 **Vote:** Motion carried unanimously by voice vote. Rep. Warburton voted by proxy.

00:37:15 **Motion:** Rep. Williams moved that **HB 24 BE AMENDED.**

EXHIBIT(nah16a02)

00:39:29 Chair J. Bennett

00:39:38 **Vote:** Motion carried unanimously by voice vote. Rep. Warburton voted by proxy.

00:39:51 **Motion:** Rep. Connell moved that **HB 24 DO PASS AS AMENDED.**

Discussion:

00:40:28 Rep. Court

00:41:29 Chair J. Bennett

00:41:36 **Vote:** Motion carried unanimously by roll call vote. Rep. Warburton voted by proxy.

EXECUTIVE ACTION ON HB 106

00:42:44 **Motion:** Rep. Connell moved that **HB 106 DO PASS.**

00:43:36 **Motion:** Rep. Connell moved that **HB 106 BE AMENDED.**

EXHIBIT(nah16a03)

Discussion:

00:43:50 Mr. Kolman, LSD

00:51:51 Rep. Connell

00:53:12 **Vote:** Motion carried unanimously by voice vote. Rep. Warburton voted by proxy.

00:53:24 **Motion/Vote:** Rep. Connell moved that **HB 106 DO PASS AS AMENDED**. Motion passed unanimously by voice vote with Rep. Warburton voting by proxy.

HEARING ON HB 248

Opening Statement by Sponsor:

00:55:29 Rep. Bryce Bennett (D), HD 92, opened the hearing on HB 248, Prohibit fire lanterns during certain fire seasons

[**EXHIBIT**](#)(nah16a04)

Proponents' Testimony:

01:01:23 Mike McGinley, Commissioner, Beaverhead County

01:02:41 Chair J. Bennett

01:02:50 Dave Schultz, Commissioner, Madison County

Opponents' Testimony: None

Informational Testimony:

01:03:36 Ted Mead, Chief of Fire & Aviation Management, Department of Natural Resources and Conservation (DNRC)

Questions from Committee Members and Responses: None

Closing by Sponsor:

01:05:02 Rep. B. Bennett, HD 9

01:06:08 Chair J. Bennett

HEARING ON HB 244

Opening Statement by Sponsor:

01:06:40 Rep. Pat Connell (R), HD 87, opened the hearing on HB 244, Generally revise water use laws.

Proponents' Testimony:

01:11:38 Matt Donnelly, Self

[**EXHIBIT**](#)(nah16a05)

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

01:20:25 Rep. Pomnichowski

01:21:14 Rep. Connell

01:22:55 Chair J. Bennett

01:22:58 Rep. Pomnichowski

01:23:18 Rep. Connell
 01:23:24 Rep. Pomnichowski
 01:24:49 Rep. Connell
 01:25:24 Chair J. Bennett
 01:25:28 Mr. Kolman, LSD
 01:26:35 Rep. Pomnichowski
 01:27:15 Mr. Kolman, LSD
 01:27:36 Chair J. Bennett
 01:27:40 Rep. Williams
 01:28:49 Rep. Connell
 01:28:55 Rep. Williams
 01:29:09 Rep. Connell

Closing by Sponsor:

01:30:10 Rep. Connell
 01:30:35 Chair J. Bennett

 01:30:51 Recessed
 01:37:20 Reconvened

 01:37:46 Chair J. Bennett

HEARING ON HJ 8

Opening Statement by Sponsor:

01:38:53 Rep. Kerry White (R), HD 70, opened the hearing on HJ 8, Resolution in opposition to the forest jobs and recreation act.

[EXHIBIT\(nah16a06\)](#)

[EXHIBIT\(nah16a07\)](#)

01:40:54 Chair J. Bennett

Proponents' Testimony:

01:41:06 Jeff Wellborn, HD 72
 01:42:34 Shelby DeMars, United Property Owners of Montana (UPOM)
 01:43:30 Mike McGinley, Commissioner, Beaverhead County
[EXHIBIT\(nah16a08\)](#)
 01:48:41 Dave Schulz, Commissioner, Madison County
 01:50:46 Tim Ravndal, Self
 01:52:47 Rick Sandru, Southwest Montana Stockmans' Association (SMSA); Ruby Valley Stock Association (RVSA)
 01:58:03 Kenneth Zahn, Self
[EXHIBIT\(nah16a09\)](#)
[EXHIBIT\(nah16a10\)](#)
 02:05:33 Bob Gilbert, Citizens for Balanced Use (CBU)
 02:06:43 Stacy Bragg, CBU)
 02:08:01 Chelcie Cremer, Montana Farm Bureau Federation (MFBF)
 02:09:54 Tom Hopgood, Montana Mining Association (MMA)
[EXHIBIT\(nah16a11\)](#)
 02:12:20 Rep. Williams

02:12:29 Mr. Hopgood, MMA
 02:13:03 Jim Brown, CBU
 02:13:25 Jeff Coiner, Self
 02:15:29 Maggie Nutter, Self
 02:16:02 Roger Nummerdor, Self
 02:17:04 Dale Ventres, Self
 02:19:42 Mary Schonsberg, Self
 02:22:26 Mark Kambich, Self
 02:23:50 Scott Murray, Self
 02:24:03 Doug Abelin, Self
 02:24:40 Ernest Nelson, Self
 02:26:04 Jim Brown, Montana Woolgrowers' Association (MWA)
 02:28:01 Dirk Nelson, Self
 02:30:09 Mike Sedlock, Montana Trail Vehicle Riders' Association (MTVRA)
 02:31:33 Elena Ventres, Self
 02:32:50 Tammy Johnson, Barrett-Goldman Sunlight Mine (BGSM)

Opponents' Testimony:

02:34:38 Jim Posewitz, Self
[**EXHIBIT\(nah16a12\)**](#)
 02:42:49 Tom France, National Wildlife Federation (NWF)
[**EXHIBIT\(nah16a13\)**](#)
 02:50:14 Charlie O'Leary, Montana Backcountry Horsemen (MBH)
[**EXHIBIT\(nah16a14\)**](#)
 02:59:47 Sherman Anderson, Self
[**EXHIBIT\(nah16a15\)**](#)
 03:12:59 Zach Brown, Self
 03:14:53 Brian Sybert, Executive Director, Montana Wilderness Association (MWA)
 03:17:42 Bill Hallinan, Montana Wilderness Association (MWA)
 03:19:31 Barb Cestero, Montana Director, Greater Yellowstone Coalition (GYC)
 03:21:05 Ben Lamb, Self
 03:23:39 Linda Stoll, Missoula County Commission
[**EXHIBIT\(nah16a16\)**](#)
 03:26:18 Lisa Bay, Self
 03:28:05 Robert Allen, Self
 03:30:28 Gabriel Furshong, Self
[**EXHIBIT\(nah16a17\)**](#)
 03:31:24 Rebecca Boslough, Self
 03:32:00 Zack Porter, Self
 03:32:58 John Todd, Self
[**EXHIBIT\(nah16a18\)**](#)
 03:34:12 Wendy Wheeler, Self
[**EXHIBIT\(nah16a19\)**](#)

Informational Testimony: None

Questions from Committee Members and Responses:

03:34:59 Rep. Lieser
 03:35:53 Mr. Petroni, Self
 03:37:48 Rep. Lynch

03:38:40 Mr. Anderson, Self
03:39:49 Rep. Shaw
03:40:23 Mr. McGinley, Commissioner, Beaverhead County
03:41:12 Rep. Eck
03:41:38 Mr. France, (NWF)
03:44:31 Rep. Pomnichowski
03:45:17 Rep. White
03:45:26 Rep. Williams
03:46:02 Mr. Petroni, Self
03:46:07 Rep. Williams
03:46:11 Mr. Petroni, Self

Closing by Sponsor:

03:47:16 Rep. White
03:47:46 Chair J. Bennett

EXECUTIVE ACTION ON HB 37

03:50:42 **Motion:** Rep. Connell moved that **HB 37 DO PASS.**

03:5 **Motion:** Rep. Connell moved that **HB 37 BE AMENDED.**
EXHIBIT(nah16a20)

Discussion:

03:52:20 Mr. Kolman, LSD
03:54:04 Rep. Pomnichowski
03:55:12 Mr. Kolman, LSD
03:56:47 Rep. Connell

03:57:26 **Vote:** Motion carried 14-2 by voice vote with Rep. Miller and Rep. Pomnichowski voting no. Rep. Warburton voted by proxy.

03:57:49 **Motion:** Rep. Connell moved that **HB 37 DO PASS AS AMENDED.**

Discussion:

03:58:00 Chair J. Bennett
03:58:08 Rep. White
03:58:25 Mr. Kolman, LSD
03:58:48 Chair J. Bennett
03:58:57 Mr. Kolman, LSD
03:59:06 Chair J. Bennett

03:58:05 **Vote** Motion carried 12-4 by roll call vote with Rep. Court, Rep. Eck, Rep. Miller and Rep. Pomnichowski voting no. Rep. Warburton voted by proxy.

ADJOURNMENT

Adjournment: 04:19:26

Colleen Dever, Secretary

cd

Additional Documents:

EXHIBIT([nah16aad.pdf](#))

Montana State Legislature

2013 Session

Additional Documents include:

- * Business Report**
- * Roll Call- attendance**
- * Standing Committee Reports,**
- * Table Bills, Fiscal reports etc.**
- * Roll Call Votes**
- * Witness Statements**
- * Informational items**
- * Visitor Registrations**
- * Any other Documents;**
 - ~ Petitions if any?**
 - ~ Any and all material handed in after the meeting end.**

**The original is on file at the
Montana Historical Society and
may be viewed there.**

**Montana Historical Society Archives
225 N. Roberts
Helena MT 59620-1201
2013 Legislative Scanner Susie Hamilton**

BUSINESS REPORT

**MONTANA HOUSE OF REPRESENTATIVES
63rd LEGISLATURE - REGULAR SESSION**

HOUSE NATURAL RESOURCES COMMITTEE

Date: Friday, January 25, 2013
Place: Capitol

Time: 2:30 P.M.
Room: 172

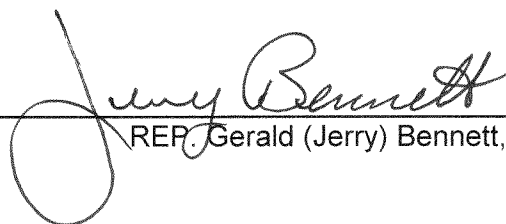
BILLS and RESOLUTIONS HEARD:

HB 244 - Generally revise water use laws - Pat Connell
HB 248 - Prohibit fire lanterns during certain fire seasons - Bryce Bennett
HJ 8 - Resolution in opposition to the forest jobs and recreation act - Kerry White

EXECUTIVE ACTION TAKEN:

HB 24 - DO PASS AS AMENDED
HB 106 - DO PASS AS AMENDED
HB 37 - DO PASS AS AMENDED

Comments:



REP. Gerald (Jerry) Bennett, Chair

HOUSE OF REPRESENTATIVES
Roll Call
NATURAL RESOURCES COMMITTEE

DATE: 1.25.13

<u>NAME</u>	PRESENT	ABSENT/EXCUSED
REP. PAT CONNELL, VICE CHAIR	✓	
REP. VIRGINIA COURT, VICE CHAIR	✓	
REP. ALAN DOANE	✓	
REP. JENNY ECK	✓	
REP. STEVE FITZPATRICK	✓	
REP. WYLIE GALT	✓	
REP. BRIAN HOVEN	✓	
REP. ED LIESER	✓	
REP. RYAN LYNCH	✓	
REP. MIKE MILLER	✓	
REP. JP POMNICHOWSKI	✓	
REP. RAY SHAW	✓	
REP. WENDY Warburton		<i>Excused</i>
REP. KERRY WHITE	✓	
REP. KATHLEEN WILLIAMS	✓	
REP. JERRY BENNETT, CHAIR	✓	



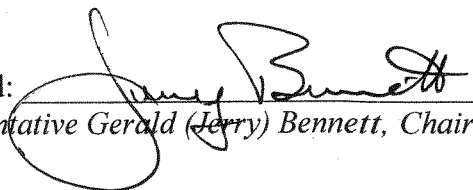
HOUSE STANDING COMMITTEE REPORT

January 29, 2013

Page 1 of 3

Mr. Speaker:

We, your committee on **Natural Resources** recommend that **House Bill 24** (first reading copy -- white) **do pass as amended.**

Signed: 
Representative Gerald (Jerry) Bennett, Chair

And, that such amendments read:

1. Title, page 1, line 9 through line 10.
Strike: "23-2-501," on line 9 through "23-2-806," on line 10
2. Title, page 1, line 11.
Strike: "87-1-306,"
3. Page 2, line 2.
Strike: "5, 6, 8,"
4. Page 2, line 9.
Strike: subsection (7) in its entirety
5. Page 2, line 14.
Strike: "5, 6, 8,"
6. Page 2, line 17.
Strike: "in a way that promotes their importance"
Insert: "and their appropriate role relative"
7. Page 2, line 20.
Strike: "and"
Following: "boating"
Insert: ", and swimming"
8. Page 2, line 22.
Following: "properties"

Committee Vote:

Yes 16, No 0

Fiscal Note Required ☐

HB0024001SC.hjk

1-29-13 DE
12:30

Strike: ", "
Insert: "and"
Following: "lands"
Strike: ", and waters"

9. Page 2, line 23.
Following: "safety,"
Insert: "public welfare,"

10. Page 2, line 24.
Following: "regulating"
Insert: "recreation, including"
Following: "camping,"
Insert: "and swimming, and"

11. Page 2, line 24 through line 26.
Following: "sanitation" on line 24
Strike: ", swimming," on line 24 through "surfboarding" on line 26

12. Page 2, line 30.
Following: "department"
Insert: ", except as provided in 87-1-209(4)"

13. Page 3, line 3 through line 4.
Strike: "\$1,000" on line 3 through "than" on line 4

14. Page 5, line 24.
Following: "of the"
Insert: ":
 (1)"
Following: "2-15-3402"
Insert: "; and
 (2) state parks and recreation board established in [section 1]"

15. Page 7, line 27.
Strike: "With the consent of the board, the"
Insert: "The"

16. Page 8, line 1.
Following: "(b)"
Insert: "with the consent of the board,"

17. Page 8, line 25.
Strike: "this section"
Insert: "subsection (3)"

18. Page 14, line 19 through page 22, line 1.

Strike: section 20 through section 30 in their entirety
Renumber: subsequent sections

19. Page 28, line 25.

Strike: "or the board"

20. Page 28, line 26.

Following: "regulations"

Insert: "or by the board setting seasonal land use regulations"

21. Page 29, line 16.

Following: "87-1-218"

Insert: "and subsection (8) of this section"

22. Page 31, line 19.

Following: "land."

Insert: "(8) Approval of the board for the acquisition or disposal of land or water pursuant to this section is required only for land and water administered under Title 23, chapter 1, or Title 23, chapter 2, parts 1 and 4."

23. Page 31, line 20.

Following: "87-1-218"

Insert: "and subsection (8) of this section"

24. Page 33, line 18.

Following: "land."

Insert: "(8) Approval of the board for the acquisition or disposal of land or water pursuant to this section is required only for land and water administered under Title 23, chapter 1, or Title 23, chapter 2, parts 1 and 4."

25. Page 34, line 13.

Following: "[section 2]"

Strike: ", 23-2-501,"

26. Page 36, line 21.

Strike: "5, 6, 8,"

27. Page 36, line 30.

Strike: "[section 2], 23-2-501, and"

28. Page 37, line 29 through page 38, line 11.

Strike: section 42 in its entirety

Renumber: subsequent sections

29. Page 40, line 6.

Strike: "5, 6, 8,"

- END -



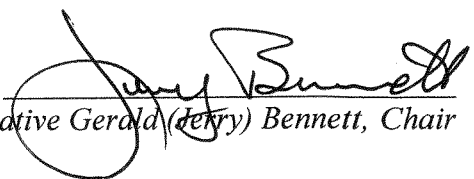
HOUSE STANDING COMMITTEE REPORT

January 29, 2013

Page 1 of 2

Mr. Speaker:

We, your committee on **Natural Resources** recommend that **House Bill 106** (first reading copy - white) **do pass as amended.**

Signed: 
Representative Gerald (Jerry) Bennett, Chair

And, that such amendments read:

1. Page 10, line 1.

Following: "preliminarily"

Insert: "determined to be"

2. Page 10, line 3.

Following: "preliminarily"

Insert: "determined to be"

- END -

3. Page 15, line 1.

Following: "petition"

Insert: "if the department finds, on the basis of information reasonably available to it, that the petition as proposed in the application will not adversely affect the rights of other appropriators"

4. Page 15, line 6.

Following: "petition does"

Insert: "not"

5. Page 17, line 20.

Following: "effect."

Insert: "A determination of whether or not there is an adverse effect on a prior appropriator as the result of a new appropriation right is a determination that must be made by the department based on the rate, location, and timing of the net depletion that causes the adverse effect relative to

Committee Vote:

Yes 16, No 0

Fiscal Note Required ☐

HB0106001SC.hjk

1-29-13 DC
12:30

the historic beneficial use of the appropriation right that may be adversely affected."

6. Page 17, line 27 through line 29.

Strike: "If the department" on line 27 through "that the potential" on line 29

Insert: "The department may grant a permit for a new appropriation only if the applicant proves by a preponderance of the evidence that the"

7. Page 19, line 2.

Strike: "could"

Insert: "may"

8. Page P19, line 2 through line 3.

Strike: "and a potential" on line 2 through "appropriator" on line 3

Following: "depletion" on line 3

Insert: ", if any"

9. Page 20, line 22 through line 24.

Strike: "If the department" on line 22 through "is required." on line 24

Insert: "An applicant whose hydrogeologic report conducted pursuant to 85-2-361 predicts that there will be a net depletion of surface water shall submit an aquifer recharge or mitigation plan."

HOUSE OF REPRESENTATIVES
Roll Call Vote
NATURAL RESOURCES COMMITTEE

DATE: 1.25.13 BILL NO HB 24 MOTION NO. _____

MOTION: _____
HB 24 DO PASS AS AMENDED

<u>NAME</u>	AYE	NO	If Proxy Vote, check here & include signed Proxy Form with minutes
REP. PAT CONNELL, VICE CHAIR	✓		
REP. VIRGINIA COURT, VICE CHAIR	✓		
REP. ALAN DOANE	✓		
REP. JENNY ECK	✓		
REP. STEVE FITZPATRICK	✓		
REP. WYLIE GALT	✓		
REP. BRIAN HOVEN	✓		
REP. ED LIESER	✓		
REP. RYAN LYNCH	✓		
REP. MIKE MILLER	✓		
REP. JP POMNICHOWSKI	✓		
REP. RAY SHAW	✓		
REP. WENDY WARBURTON	✓		✓
REP. KERRY WHITE	✓		
REP. KATHLEEN WILLIAMS	✓		
REP. JERRY BENNETT, CHAIR	✓		

HOUSE OF REPRESENTATIVES
Roll Call Vote
NATURAL RESOURCES COMMITTEE

DATE: 1.25.13 BILL NO 37 MOTION NO. _____
 MOTION: H B DO PASS AS AMENDED
12-4

<u>NAME</u>	AYE	NO	If Proxy Vote, check here & include signed Proxy Form with minutes
REP. PAT CONNELL, VICE CHAIR	✓		
REP. VIRGINIA COURT, VICE CHAIR		✓	
REP. ALAN DOANE	✓		
REP. JENNY ECK		✓	
REP. STEVE FITZPATRICK	✓		
REP. WYLIE GALT	✓		
REP. BRIAN HOVEN	✓		
REP. ED LIESER	✓		
REP. RYAN LYNCH	✓		
REP. MIKE MILLER		✓	
REP. JP POMNICHOWSKI		✓	
REP. RAY SHAW	✓		
REP. WENDY WARBURTON	✓		✓
REP. KERRY WHITE	✓		
REP. KATHLEEN WILLIAMS	✓		
REP. JERRY BENNETT, CHAIR	✓		

**AUTHORIZED
COMMITTEE PROXY**

I request to be excused from the NATURAL RESOURCES

Committee because of other commitments. I desire to leave my proxy vote with:

Pat Coanell

Indicate Bill number and your vote Aye or No. If there are amendments, list them by name and number under the bill and indicate a separate vote for each amendment.

BILL/AMENDMENT

AYE NO

HB 24		
HB 002401.ahs	✓	
HB 002403.ahs	✓	
HB 24 twice		
amended	✓	
HB 010601.ajk	✓	
HB 106	✓	
HB 003703.ajk	✓	
HB 37 amended	✓	

BILL/AMENDMENT

AYE NO

Rep.

Wendy Hartsman
(Signature)

Date

25 MAR

MONTANA House of Representatives Visitors Register

Friday, January 25, 2013

HB 248 - Prohibit fire lanterns during certain fire seasons

Sponsor: Representative Bryce Bennett

PLEASE PRINT

[illegible]

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

HOUSE NATURAL RESOURCES COMMITTEE

Sponsor: Representative Pat Connell

PLEASE PRINT

[illegible]

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

MONTANA House of Representatives
Visitors Register
HOUSE NATURAL RESOURCES COMMITTEE

Friday, January 25, 2013

HJ 8 - Resolution in opposition to the forest jobs and recreation act

Sponsor: Representative Kerry White

PLEASE PRINT

Name	Representing	Support	Oppose	Info
Maggie Nuttall	Maggie Nuttall	X		
Mike McGinty	Beauregard Co.	X		
Tim Brown	CBU	X		
Mary Schonsberg	Self	X		
Scott Murray	Self	X		
Dora Abela	EFUAA	X		
JEN HALEY	Self	X		
STACY BRADB	CBU	X		
MARK KAMISICH	Self	X		
Chelcie Gremer	MFBF	X		
Sherman Anderson	Sun Mountain Lumber		X	
Tony Colter	Sun Mountain Lumber		X	
Bob Gilbert	CITIZENS FOR BALANCED USE	X		
ROGER NUMMERDORF	Self	X		
DALE VENTRES	Self	X		
Garret Ventres	Self	X		
Elena Ventres	Self	X		
KENNETH ZAHN	Self	X		
TIM McLEAN	Self		X	
Addison Marx	Self		X	
Ross Prosperi	MCU		X	
Dave Schuch	Madison Co.	X		

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

Sign-In Sheet

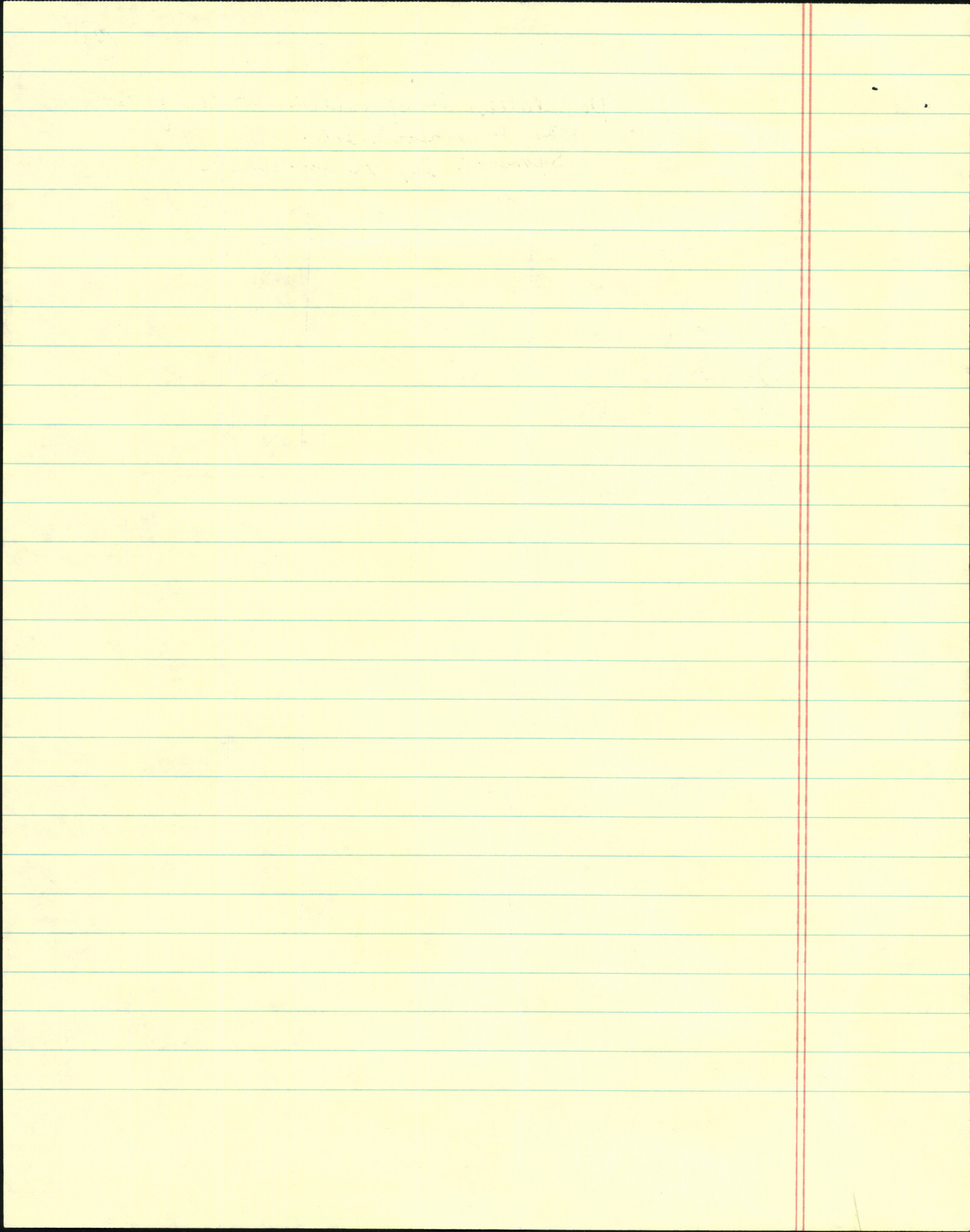
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(2)

HJ 8- Resolution in opposition to the forest
jobs + recreation Act.

Sponsor: Rep. Keny White

Name	Representing	Support	Oppose	Info
Susan Getz	Self	X		
CHARLACE D GETZ	"	X		
Brian Sobrepena	Self	X		
Dan McManis	Self	X		
Ernest Nelson	"	X		
DIRK NELSON	"	X		
Tim Randal	Self	X		



Sign-In Sheet
HJ-8

#18 - Resolution in opposition
to the forest jobs + recreation
act.

Sponsor: Rep. K. White

③

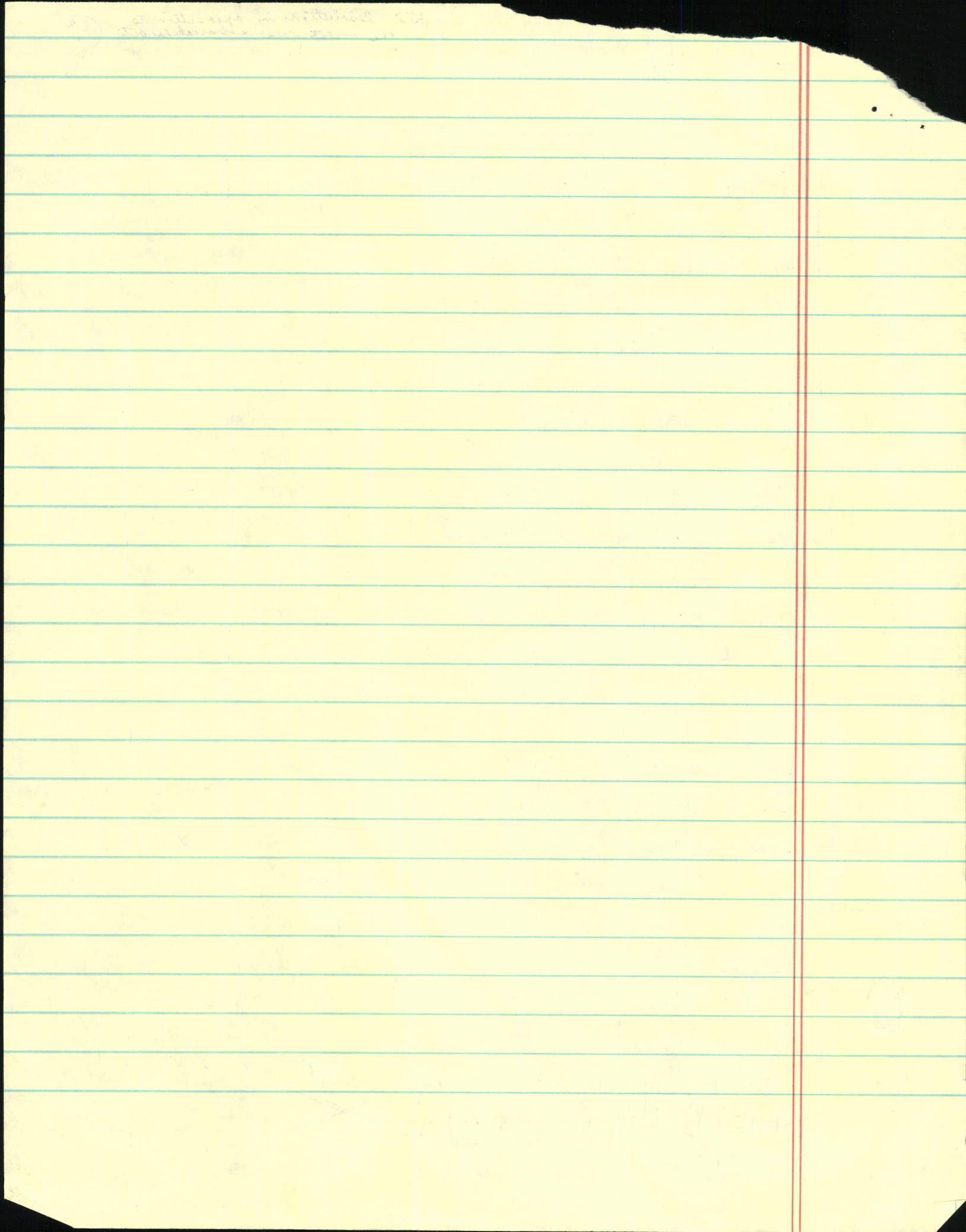
NAME	REPRESENTING	Support	Oppose	Info.
Rick Sandru	Ruby Valley Stock Assn. Southwest Stockmen's	✓		
Pat Duggard	Self	✓		
Jeff Coiner	Self	✓		
Tom Hopgood	MT Mining Assoc.	✓		
Don Abernethy	CTUA-MTURA	✓		

Handwritten text at the top of the page, possibly a title or header, which is mostly illegible due to fading and the torn edge of the paper. It appears to contain several lines of text.

Sign-In Sheet HJ 8

HJ 8 - Resolution in opposition to
the forest plan & associated act
Sponsor: Rep. Kerry White

Name	Representing	Support	Oppose	Info
Jim Bsewitz	Self		✓	
Ben Lamb	Self		✓	
Mary Alice Chesser	Self		✓	
Warne Chamberlain	Self		✓	
John Tom	SELF		✓	
Barb Cester	Self GYC		✓	
Robert Allen	Self		✓	
Mike Sedlack	MTVRA	✓		
David Koch	CTVA	✓		
Brian French	CTVA	✓		
Jim Ludwick	Self	✓		
Tom Frank	NWF		✓	
Gabriel Forchong			✓	
Beau Boslough	Self		✓	
Zack Porter	Self		✓	
Denny Lester	SELF		✓	
Jaral White	Self	✗	✓	
Zach Brown	Self	✗	✓	
Laura Parr	Self	✗	✓	
USA BAY	Self		✓	
Tammy Johnson	GSM	✓		
Bill Hallinan	MWA WD/self	✗	✓	
Shelby DeMars	United Property Owners of Mt	✗		
Jim Brown	Woon Brown	✗		



HT 8

HJF - Resolution in opposition to the forest
jobs & recreation act. (5)

Sponsor = Rep. Kerry White

Please Print

Name	Representing	Support	Oppose	Info
PAUL LANDSGHARD	MYSELF	✓		

1897 Oct 2

1897 Oct 2

1897 Oct 2

Amendments to House Bill No. 24
1st Reading Copy

Requested by Representative Duane Ankney

For the House Natural Resources Committee

Prepared by Hope Stockwell
January 24, 2013 (11:51am)

1. Title, page 1, line 9 through line 10.
Strike: "23-2-501," on line 9 through "23-2-806," on line 10
2. Title, page 1, line 11.
Strike: "87-1-306,"
3. Page 2, line 2.
Strike: "5, 6, 8,"
4. Page 2, line 9.
Strike: subsection (7) in its entirety
5. Page 2, line 14.
Strike: "5, 6, 8,"
6. Page 2, line 20.
Strike: "and"
Following: "boating"
Insert: ", and swimming"
7. Page 2, line 22.
Following: "properties"
Strike: ", "
Insert: "and"
Following: "lands"
Strike: ", and waters"
8. Page 2, line 23.
Following: "safety,"
Insert: "public welfare,"
9. Page 2, line 24.
Following: "regulating"
Insert: "recreation, including"
Following: "camping,"
Insert: "and swimming, and"
10. Page 2, line 24 through line 26.
Following: "sanitation" on line 24

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~~SECRET~~
Strike: ", swimming," on line 24 through "surfboarding" on line 26

11. Page 2, line 30.

Following: "department"

Insert: ", except as provided in 87-1-209(4)"

12. Page 5, line 24.

Following: "of the"

Insert: ":

(1)"

Following: "2-15-3402"

Insert: "; and

(2) state parks and recreation board established in [section 1]"

13. Page 7, line 27.

Strike: "With the consent of the board, the"

Insert: "The"

14. Page 8, line 1.

Following: "(b)"

Insert: "with the consent of the board,"

15. Page 8, line 25.

Strike: "this section"

Insert: "subsection (3)"

16. Page 14, line 19 through page 22, line 1.

Strike: section 20 through section 30 in their entirety

Renumber: subsequent sections

17. Page 28, line 25.

Strike: "or the board"

18. Page 28, line 26.

Following: "regulations"

Insert: "or by the board setting seasonal land use regulations"

19. Page 29, line 16.

Following: "87-1-218"

Insert: "and subsection (8) of this section"

20. Page 31, line 19.

Following: "land."

Insert: "(8) Approval of the board for the acquisition or disposal of land or water pursuant to this section is required only for land and water administered under Title 23, chapter 1, or Title 23, chapter 2, parts 1 and 4."

21. Page 31, line 20.

Following: "87-1-218"

Insert: "and subsection (8) of this section"

22. Page 33, line 18.

Following: "land."

Insert: "(8) Approval of the board for the acquisition or disposal of land or water pursuant to this section is required only for land and water administered under Title 23, chapter 1, or Title 23, chapter 2, parts 1 and 4."

23. Page 34, line 13.

Following: "[section 2]"

Strike: ", 23-2-501,"

24. Page 36, line 21.

Strike: "5, 6, 8,"

25. Page 36, line 30.

Strike: "[section 2], 23-2-501, and"

26. Page 37, line 29 through page 38, line 11.

Strike: section 42 in its entirety

Renumber: subsequent sections

27. Page 40, line 6.

Strike: "5, 6, 8,"

- END -

Amendments to House Bill No. 24
1st Reading Copy

Requested by Representative Kathleen Williams

For the House Natural Resources Committee

Prepared by Hope Stockwell
January 25, 2013 (12:20pm)

1. Page 2, line 17.

Strike: "in a way that promotes their importance"

Insert: "and their appropriate role relative"

2. Page 3, line 3 through line 4.

Strike: "\$1,000" on line 3 through "than" on line 4

- END -

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MINUTES

MONTANA SENATE 63rd LEGISLATURE - REGULAR SESSION COMMITTEE ON NATURAL RESOURCES

Call to Order: Chair Chas Vincent, on March 8, 2013 at 3:00 PM, in Room 422 Capitol

ROLL CALL

Members Present:

Sen. Chas Vincent, Chair (R)
Sen. John Brenden, Vice Chair (R)
Sen. Debby Barrett (R)
Sen. Jennifer Fielder (R)
Sen. Bradley Hamlett (D)
Sen. Verdell Jackson (R)
Sen. Jim Keane (D)
Sen. Cliff Larsen (D)
Sen. Rick Ripley (R)
Sen. Matthew M. Rosendale Sr (R)
Sen. Mitch Tropila (D)
Sen. Edward Walker (R)

Members Excused: None

Sen. Christine Kaufmann (D)
Sen. Mike Phillips (D)

Members Absent: None

Staff Present: Mary Kulawik, Committee Secretary
Sonja Nowakowski, Legislative Branch

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted: HB 24, 2/27/2013; HB 59, 2/27/2013

Executive Action: HB 59 - Be Concurred In
SR 10 - Be Adopted

Committee Business:

00:09:11 Chairman Vincent

00:09:38 Vice Chair Brenden assumed the role of Chair.

00:09:40 Sen. Vincent left the hearing.

HEARING ON HB 59

Opening Statement by Sponsor:

00:09:49 Rep. Ryan Lynch (D), HD 74, opened the hearing on HB 59, Revise title of governor's drought advisory committee.

Proponents' Testimony:

00:10:30 Tim Davis, Administrator, Montana Department of Natural Resources and conservation (DNRC)

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses: None

Closing by Sponsor:

00:11:35 Rep. Lynch

EXECUTIVE ACTION ON HB 59

00:12:14 **Motion/Vote:** Sen. Keane moved that **HB 59 BE CONCURRED IN**. Motion carried 14-0 by voice vote. Sen. Kaufmann, Sen. Phillips and Sen. Vincent voted by proxy. Sen. Keane will carry the bill.

HEARING ON HB 24

Opening Statement by Sponsor:

00:13:08 Rep. Duane Ankney (R), HD 43, opened the hearing on HB 24, Create state parks and recreation board.

Proponents' Testimony:

00:18:14 Chas Van Genderen, Administrator, Montana Department of Fish, Wildlife and Parks (FWP)

EXHIBIT(nas50a01)

00:21:45 Homer Staves, President, Campground Owners Association of America (COAM)

EXHIBIT(nas50a02)

00:25:02 Mike Penfold, Volunteer, Our Montana (OM)
 00:25:59 Chris Puyear, Montana Lodging and Hospitality Association (MLHA)
 00:27:10 Mike Sedlock, Capital Trail Vehicle Riders Association (CTVRA)
 00:28:08 Chere Jiusto, Executive Director, Montana Preservation Alliance (MPA)
 00:30:13 Howard Boggess, Member of the Crow Tribe, Frontier Heritage Alliance (FHA)

 00:31:11 Sen. Vincent returned to the hearing and resumed the role of Chair.

 00:32:41 Mike Jeffords, Ravalli County Off Road USA (RCORUSA)
 00:33:20 Bob Walker, Volunteer, Montana Recreation and Parks Association (MRPA)
 00:34:49 Ron Alexander, Montana Trail Vehicle Riders Association (MTVRA) and
 Snowmobile Association (SA)

Opponents' Testimony:

00:35:29 Dwight Young, self

Informational Testimony: None

Questions from Committee Members and Responses:

00:38:52 Sen. Fielder
 00:40:38 Chas Van Genderen, FWP
 00:41:58 Sen. Rosendale
 00:43:38 Chas Van Genderen
 00:44:08 Sen. Brenden
 00:44:31 Chas Van Genderen

Closing by Sponsor:

00:45:10 Rep. Ankney

Committee Business:

00:48:05 Chairman Vincent
 00:48:15 Sen. Peterson
 00:48:28 Chairman Vincent

EXECUTIVE ACTION ON SR 10

00:48:31 **Motion/Vote:** Sen. Tropila moved that **SR 10 BE ADOPTED**. Motion carried 14-0 by voice vote. Sen. Kaufmann and Sen. Phillips voted by proxy.

Committee Business:

00:49:18 Chairman Vincent
 00:49:38 Sen. Brenden
 00:50:03 Chairman Vincent
 00:50:09 Sen. Hamlett
 00:50:12 Chairman Vincent

ADJOURNMENT

Adjournment: 3:45 P.M.

Mary Kulawik, Secretary

mk

Additional Documents

Additional Documents:

EXHIBIT([nas50aad.pdf](#))

Montana State Legislature

2013 Session

ADDITIONAL DOCUMENTS MAY INCLUDE THE FOLLOWING:

- **Business Report**
- **Roll Call – Attendance**
- **Standing Committee Reports**
- **Tabled Bills**
- **Fiscal Reports etc.**
- **Roll Call Votes**
- **Informational Items**
- **Witness Statements**
- **Any Documents; such as;**
 - ***Petitions if any.**
 - ***Any and all material handed end after the meeting ends.**

**The original is on file at the
Montana Historical Society
and may be viewed there.**

**Montana Historical Society
Archives
225 N. Roberts
Helena MT 59620-1201
2013 Legislative Scanner Susie Hamilton**

BUSINESS REPORT

**MONTANA SENATE
63rd LEGISLATURE - REGULAR SESSION**

SENATE NATURAL RESOURCES COMMITTEE

Date: Friday, March 8, 2013

Place: Capitol

Time: 3:00 PM

Room: 422

BILLS and RESOLUTIONS HEARD:

HB 24 - Create state parks and recreation board - Rep. Duane Ankney
HB 59 - Revise title of governor's drought advisory committee - Rep. Ryan Lynch

EXECUTIVE ACTION TAKEN:

HB 59 - Be Concurred In
SR 10 - Be Adopted

Comments:



SEN. Chas Vincent, Chair

MONTANA STATE SENATE
Roll Call
NATURAL RESOURCES COMMITTEE

DATE: 3-08-13

<u>NAME</u>	<u>PRESENT</u>	<u>ABSENT/ EXCUSED</u>
SENATOR CHAS VINCENT, CHAIR	✓	
SENATOR JOHN BRENDEN, VICE CHAIR	✓	
SENATOR DEBBY BARRETT	✓	
SENATOR JENNIFER FIELDER	✓	
SENATOR BRAD HAMLETT	✓	
SENATOR VERDELL JACKSON	✓	
SENATOR CHRISTINE KAUFMANN		Excused
SENATOR JIM KEANE	✓	
SENATOR CLIFF LARSEN	✓	
SENATOR MIKE PHILLIPS		Excused
SENATOR RICK RIPLEY	✓	
SENATOR MATTHEW ROSENDALE	✓	
SENATOR MITCH TROPILA	✓	
SENATOR ED WALKER	✓	



SENATE STANDING COMMITTEE REPORT

March 8, 2013

Page 1 of 1

Mr. President:

We, your committee on **Natural Resources** recommend that **House Bill 59** (third reading copy -- blue) **be concurred in.**

Signed: _____

Chas Vincent
Senator Chas Vincent, Chair

To be carried by Senator Jim Keane

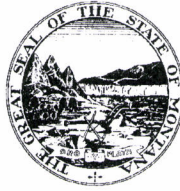
- END -

Committee Vote:

Yes 14, No 0

Fiscal Note Required ☐

HB0059001SC13544.swr



**PRELIMINARY
SENATE STANDING COMMITTEE REPORT**

March 8, 2013

Page 1 of 1

Mr. President:

We, your committee on **Natural Resources** recommend that **Senate Resolution 10** (first reading copy -- white) **be adopted**.

Signed: _____


Senator Chas Vincent, Chair

- END -

Committee Vote:

Yes 14, No 0

Fiscal Note Required ☐

SR0010001SC.swr

SENATE PROXY

I, Senator Christine Kaufmann, hereby authorize

Senator Kearney to vote my proxy before the

Senate Natural Resources meeting held on 3-8-, 2013.

Senator Signature

Date _____

Said authorization is as follows: *(mark only one)*

- ☐ All votes, including amendments.
- ☐ All votes as directed below on the listed bills, and all other votes.
- ☐ Votes only as directed below.

[illegible]

SENATE PROXY

I, Senator Mike Phillips, hereby authorize Senator Keene to
vote my proxy before the Senate Natural Resources meeting held on
3-8, 2013.

Senator Signature Mike Phillips

3-8-2013
Date

Said authorization is as follows: *(mark only one)*

- ☐ All votes, including amendments.
- ☐ All votes as directed below on the listed bills, and all other votes.
- ☐ Votes only as directed below.

[illegible]

SENATE PROXY

I, Senator Chas Vincent, hereby authorize Senator Brenden to vote my proxy before the Senate Natural Resources meeting held on March 8th, 2013.

Ch. Vincent

Senator Signature

3/8/13

Date _____

Said authorization is as follows: *(mark only one)*

- X All votes, including amendments.
- ☐ All votes as directed below on the listed bills, and all other votes.
- ☐ Votes only as directed below.

[illegible]

MONTANA STATE SENATE
Visitors Register
SENATE NATURAL RESOURCES COMMITTEE

Friday, March 8, 2013

HB 24 - Create state parks and recreation board

Sponsor: Rep. Duane Ankney

PLEASE PRINT

Name	Representing	Support	Oppose	Info
Homer Staves	COAM	X		
Shelby F. DeMars	United Property Owners of MT	X		
Mike Penfold	Our Montana	X		
Howard Rogers	Frontier Heritage Alliance	X		
Dwight Young	Myself		X	
Chris Puyar	MLHA	X		
Bob Walker	Montana Recreation + Parks Assoc.	X		
Mike Jeffords	Rawlins County Off Road Users	X		
Kathy Jeffords	Rawlins County Off Road Users	X		
Donna Alexander	MTVRA & Snowmobile Assoc.	X		
MIKE SEDLOCK	CTVRA	X		
MARK SP				
Kate Cholens	City of MSLA	X		
Chere Justo	MT Preservation Alliance	X		

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

SENATE NATURAL RESOURCES COMMITTEE

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

MONTANA STATE SENATE

SENATE NATURAL RESOURCES COMMITTEE

Friday, March 8, 2013

HB 59 - Revise title of governor's drought advisory committee

Sponsor: Rep. Ryan Lynch

PLEASE PRINT

[illegible]

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.



PARKS AND RECREATION DEPARTMENT

600 CREGG LN • MISSOULA, MT 59801 • (406) 721-7275 • FAX: (406) 258-3665
PARKS • RECREATION • URBAN FORESTRY • CONSERVATION LANDS • TRAILS

Senate Natural Resource Committee
Senator Chas Vincent, Chair
Senator John Brenden, VC
Senator Cliff Larsen, Member

March 6, 2013

Representative Duane Ankney, Bill Sponsor

RE: HB 24 – Creation of FWP Parks & Recreation Board

Dear Senators,

As the Director of Missoula Parks & Recreation, I am writing to express strong support for HB 24 as I believe it will strengthen and benefit the Parks Division of Fish, Wildlife & Parks (FWP), which in turn will benefit the citizens of Montana.

Because the Parks Division of FWP currently manages their programs with the oversight of the Fish, Wildlife & Parks Commission, and that Commission deals primarily with fish and wildlife season issues, not much time is invested in parks and recreation programs issues. Forming a new citizen board with members who *"must be informed or experienced in the conservation and protection of state parks, heritage resources, natural resources, tourism promotion and development, or outdoor recreation"* will finally devote the time and expertise needed to state parks and recreation issues.

As staff to our 7 citizen member Missoula Parks & Recreation Board, I know that I greatly appreciate their enthusiasm, knowledge, and love of Missoula's parks and our recreation programs that serve thousands of residents. They provide guidance for major decisions, help with prioritizing significant budget issues, lead funding drives, and offer support when needed at City Council for our programs. A new board for the FWP Parks Division can provide this type of support on a state-wide basis and help to elevate the importance of Montana's beautiful state parks to better serve Montana residents and visitors.

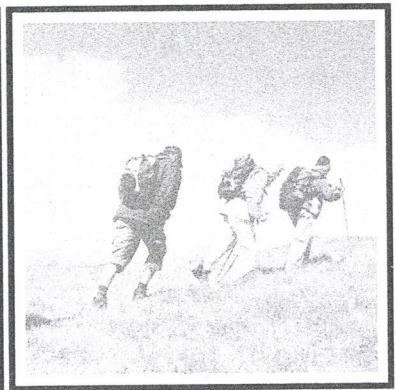
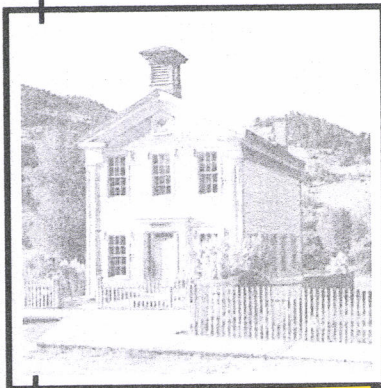
Sincerely,

Donna Gaukler

Director, Parks & Recreation

HJR 32

A Study of State Parks, Outdoor Recreation, and Heritage Resource Programs



Additional
document
Book.
Partial
Information
entire
doc. @
MHS

Report to the 63rd Legislature
October 2012

Environmental Quality Council
P.O. Box 201704
Helena, MT 59620-1704
Phone: (406) 444-3742

Fax: (406) 444-3971
<http://leg.mt.gov/eqc>

Prepared by Hope Stockwell

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MINUTES

MONTANA SENATE 63rd LEGISLATURE - REGULAR SESSION COMMITTEE ON NATURAL RESOURCES

Call to Order: Chair Chas Vincent, on March 15, 2013 at 3:00 PM, in Room 422 Capitol

ROLL CALL

Members Present:

Sen. Chas Vincent, Chair (R)
Sen. John Brenden, Vice Chair (R)
Sen. Debby Barrett (R)
Sen. Jennifer Fielder (R)
Sen. Bradley Hamlett (D)
Sen. Verdell Jackson (R)
Sen. Christine Kaufmann (D)
Sen. Jim Keane (D)
Sen. Mike Phillips (D)
Sen. Rick Ripley (R)
Sen. Matthew M. Rosendale Sr (R)
Sen. Mitch Tropila (D)

Members Excused:

Sen. Cliff Larsen (D)
Sen. Edward Walker (R)

Members Absent: None

Staff Present: Mary Kulawik, Committee Secretary
Sonja Nowakowski, Legislative Branch

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted: HB 388, 2/26/2013; HB 451, 3/11/2013; HJ 9, 2/26/2013

Executive Action: SB 355 - DPAA
HB 37 - Be Concurred In As Amended
HB 106 - Be Concurred In As Amended
HB 291 - Be Concurred In As Amended
HB 359 - Be Concurred In
HB 24 - Be Concurred In As Amended

00:22:58 Chairman Vincent turned over Chair responsibilities to Vice Chair Brenden and left the hearing.

00:23:30 Sen. Larsen entered the hearing.

EXECUTIVE ACTION ON SB 355

00:23:44 **Motion:** Sen. Hamlett moved that **SB 355 DO PASS.**

00:24:42 **Motion:** Sen. Hamlett moved that **SB 355 BE AMENDED.**

Discussion:

00:24:49 Sonja Nowakowski, Legislative Services Division (LSD)

00:25:33 **Vote:** Motion carried 14-0 by voice vote. Sen. Vincent and Sen. Walker voted by proxy.

00:26:05 **Motion:** Sen. Brenden moved that **SB 355 BE AMENDED.**
[EXHIBIT\(nas56a01\)](#)

Discussion:

00:26:15 Sonja Nowakowski, LSD

00:26:38 **Vote:** Motion carried 14-0 by voice vote. Sen. Vincent and Sen. Walker voted by proxy.

00:26:56 **Motion:** Sen. Brenden moved that **SB 355 BE AMENDED.**

Discussion:

00:27:06 Sonja Nowakowski

00:27:24 **Vote:** Motion carried 14-0 by voice vote. Sen. Vincent and Sen. Walker voted by proxy.

00:27:37 **Motion:** Sen. Hamlett moved that **SB 355 DO PASS AS AMENDED.**

Discussion:

00:27:59 Sen. Barrett

00:28:09 Sen. Hamlett

00:29:27 Sen. Ripley

00:30:21 Sen. Fielder

00:30:37 Sen. Hamlett

00:30:44 Sonja Nowakowski

00:31:14 **Vote:** Motion carried 14-0 by voice vote. Sen. Vincent and Sen. Walker voted by proxy.

EXECUTIVE ACTION ON HB 37

00:31:52 **Motion:** Sen. Keane moved that **HB 37 BE CONCURRED IN.**

00:32:09 **Motion/Vote:** Sen. Phillips moved that **HB 37 BE AMENDED.** Motion carried 14-0 by voice vote. Sen. Vincent and Sen. Walker voted by proxy.

EXHIBIT(nas56a02)

00:33:09 **Motion:** Sen. Tropila moved that **HB 37 BE AMENDED.**

EXHIBIT(nas56a03)

Discussion:

00:33:25 Sen. Tropila

00:34:18 **Vote:** Motion carried 9-5 by roll call vote with Sen. Barrett, Sen. Brenden, Sen. Jackson, Sen. Vincent and Sen. Walker voting no. Sen. Vincent and Sen. Walker voted by proxy.

00:35:28 **Motion:** Sen. Hamlett moved that **HB 37 BE AMENDED.**

EXHIBIT(nas56a04)

Discussion:

00:37:02 Sen. Barrett
00:37:22 Sen. Ripley
00:37:53 Sen. Rosendale
00:38:19 Sen. Jackson
00:38:39 Sen. Kaufmann
00:39:00 Chairman Brenden
00:39:20 Sen. Keane
00:39:43 Sen. Larsen
00:40:46 Sen. Fielder
00:41:09 Sen. Hamlett

00:41:50 Without objection, Sen. Hamlett withdrew the BE AMENDED motion.

00:41:59 **Motion:** Sen. Keane moved that **HB 37 BE CONCURRED IN AS AMENDED.**

Discussion:

00:42:16 Sen. Hamlett
00:42:36 Sen. Kaufmann
00:43:52 Sen. Barrett
00:44:49 Joe Lamson, Deputy Director, Montana Department of Natural Resources and Conservation (DNRC)
00:45:39 Sen. Phillips
00:46:53 Sen. Fielder
00:47:15 Sen. Phillips

00:47:34 **Vote:** Motion carried 12-2 by roll call vote with Sen. Kaufmann and Sen. Tropila voting no. Sen. Vincent and Sen. Walker voted by proxy. Sen. Keane will carry the bill.

EXECUTIVE ACTION ON HB 106

00:49:05 **Motion:** Sen. Keane moved that **HB 106 BE CONCURRED IN.**

00:49:50 **Motion:** Sen. Keane moved that **HB 106 BE AMENDED.**
[**EXHIBIT\(nas56a05\)**](#)

Discussion:

00:49:58 Sonja Nowakowski, LSD

00:51:15 Bruce Loble, Chief Water Judge, Water Court (WC)

00:52:30 Sen. Phillips

00:52:48 Bruce Loble, WC

00:53:12 **Vote:** Motion carried 14-0 by voice vote. Sen. Vincent and Sen. Walker voted by proxy.

00:53:35 **Motion:** Sen. Keane moved that **HB 106 BE CONCURRED IN AS AMENDED.**

Discussion:

00:53:49 Sen. Fielder

00:54:40 **Vote:** Motion carried 12-2 by roll call vote with Sen. Hamlett and Sen. Ripley voting no. Sen. Vincent and Sen. Walker voted by proxy. Sen. Rosendale will carry the bill. (Vote not reported out of committee by request of Chairman Vincent.)

EXECUTIVE ACTION ON HB 291

00:56:19 **Motion:** Sen. Larsen moved that **HB 291 BE CONCURRED IN.**

00:56:44 **Motion:** Sen. Phillips moved that **HB 291 BE AMENDED.**
[**EXHIBIT\(nas56a06\)**](#)

Discussion:

00:57:08 Sen. Tropila

00:57:29 **Vote:** Motion carried 12-2 by roll call vote with Sen. Vincent and Sen. Walker voting no. Sen. Vincent and Sen. Walker voted by proxy.

00:58:35 **Motion/Vote:** Sen. Keane moved that **HB 291 BE CONCURRED IN AS AMENDED.** Motion carried 14-0 by voice vote. Sen. Vincent and Sen. Walker voted by proxy. Sen. Larsen will carry the bill.

EXECUTIVE ACTION ON HB 359

00:59:27 **Motion:** Sen. De. Barrett moved that **HB 359 BE CONCURRED IN.**

Discussion:

00:59:39 Sen. Fielder
00:59:43 Chairman Brenden
01:00:02 Sen. Kaufmann
01:01:24 Sen. Rosendale
01:01:24 Sen. Tropila

01:02:55 Sen. Hamlett left the hearing.

01:03:00 Sen. Ripley
01:03:30 Sen. Phillips
01:04:40 Sen. Barrett
01:05:23 Sen. Kaufmann
01:06:13 Sen. Fielder
01:06:51 Chairman Brenden

01:07:55 **Vote:** Motion carried 9-4 by roll call vote with Sen. Kaufmann, Sen. Larsen, Sen. Phillips and Sen. Tropila voting no. Sen. Vincent and Sen. Walker voted by proxy. Sen. Hamlett was excused. Sen. Fielder will carry the bill.

EXECUTIVE ACTION ON HB 24

01:09:21 **Motion:** Sen. Keane moved that **HB 24 BE CONCURRED IN.**

01:10:00 **Motion:** Sen. Keane moved that **HB 24 BE AMENDED.**
EXHIBIT(nas56a07)

Discussion:

01:10:10 Sonja Nowakowski, Legislative Services Division (LSD)
01:11:48 Sen. Larsen
01:11:58 Sonja Nowakowski, LSD
01:12:45 Chairman Brenden
01:14:11 Sen. Ripley

01:14:42 **Vote:** Motion carried 13-0 by roll call vote. Sen. Vincent and Sen. Walker voted by proxy. Sen. Hamlett was excused.

01:15:30 **Motion:** Sen. Keane moved that **HB 24 BE CONCURRED IN AS AMENDED.**

Discussion:

01:15:38 Chairman Brenden
01:16:44 Sen. Ripley

01:18:43 Sen. Keane
 01:20:37 Sen. Jackson
 01:21:25 Sen. Fielder
 01:23:02 Sen. Barrett

01:24:15 **Vote:** Motion carried 13-0 by roll call vote. Sen. Vincent and Sen. Walker voted by proxy. Sen. Hamlett was excused. Sen. Keane will carry the bill.

01:27:05 Chairman Brenden turned over Chair responsibilities to Sen. Keane and left hearing.

HEARING ON HB 388

Opening Statement by Sponsor:

01:27:15 Rep. Mike Cuffe (R), HD 2, opened the hearing on HB 388, Revise wood products revolving loan fund.

Proponents' Testimony:

01:29:43 Julia Altemus, Montana Wood Products Association (MWPA)
[EXHIBIT\(nas56a08\)](#)
[EXHIBIT\(nas56a09\)](#)

01:34:24 Andy Poole, Deputy Director, Montana Department of Commerce (DOC)
[EXHIBIT\(nas56a10\)](#)

01:35:24 Mark Lambrecht, Executive Director, Treasure State Resource Industry Association (TSRIA)
 01:35:42 Joe Lamson, Deputy Director, Montana Department of Natural Resources and Conservation (DNRC)

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

01:37:01 Sen. Larsen
 01:37:24 Andy Poole, DOC
 01:37:56 Sen. Rosendale
 01:38:07 Andy Poole
 01:38:46 Sen. Kaufmann
 01:40:47 Andy Poole
 01:41:22 Sen. Tropila
 01:41:29 Andy Poole
 01:42:19 Sen. Fielder
 01:43:15 Andy Poole

Closing by Sponsor:

01:43:37 Rep. Cuffe

HEARING ON HB 451

Opening Statement by Sponsor:

01:46:38 Rep. Wylie Galt (R), HD 83, opened the hearing on HB 451, Revise firewarden laws.

Proponents' Testimony:

01:47:01 Rick Seidlitz, Fire Warden, Firewardens Association (FA)

01:47:31 Joe Lamson, Deputy Director, Montana Department of Natural Resources and Conservation (DNRC)

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

01:48:06 Sen. Phillips

01:48:25 Sen. Walker entered the hearing.

01:48:41 Joe Lamson, DNRC

01:49:11 Sen. Tropila

01:49:26 Rep. Galt

Closing by Sponsor:

01:49:55 Rep. Galt

HEARING ON HJ 9

Opening Statement by Sponsor:

01:50:40 Rep. Jonathan McNiven (R), HD 44, opened the hearing on HJ 9, Joint resolution supporting coal.

Proponents' Testimony:

01:54:38 Bud Clinch, Montana Coal Coalition (MCC)

[EXHIBIT\(nas56a11\)](#)

02:00:26 Sen. Vincent resumed the responsibilities of the Chair.

02:01:07 D. B. Kenner, Chairman, Montana State Legislative Board (MSLB) and
Brotherhood of Locomotive Engineers and Trainmen (BLET)

02:01:53 Art Noonan, NorthWestern Energy (NWE)

02:04:30 Keith Allen, International Brotherhood of Electrical Workers (IBEW)

02:05:06 Gail Abercrombie, Montanans for Responsible Energy Development (MRED)

02:06:00 Jessie Luther, Montana Contractors Association (MCA) and Great Northern
Properties (GNP)

02:07:19 Al Ekblad, Montana AFL-CIO

02:08:30 Tom Berrum, United Transportation Union (UTU)

02:10:12 Henry Kriegel, Americans for Prosperity-Montana (APM)

02:11:39 John Roeber, Manager, International Brotherhood of Boilermakers Local Lodge
11 (IBB)

02:12:18 Jess LaBuff, International Brotherhood of Boilermakers Local Lodge 11 (IBB)

02:13:21 Darren Brown, International Brotherhood of Boilermakers Local Lodge 11 (IBB)

02:13:32 Michael Seacrease, self

02:13:41 Barbara Ranf, Burlington Northern Sante Fe (BNSF) Railways

02:13:56 Laura Feist, Montana Mining (MM)

02:14:06 Mark Lambrecht, Executive Director, Treasure State Resource Industry
Association (TSRIA)

02:14:17 Quentin Nyman, Executive Director, Montana Public Employees Association
(MPEA) and Vice President, Montana AFL-CIO

02:14:34 Todd O'Hair, Senior Manager for Government Affairs, Cloud Peak Energy (CPE)

[EXHIBIT\(nas56a12\)](#)

02:14:53 Aimee Grmoljez, Arch Coal (AC)

02:15:08 Dan Flynn, International Brotherhood of Electrical Workers (IBEW)

Opponents' Testimony:

02:15:34 Raymond Willms, self

02:19:17 Julie Devlin, self

[EXHIBIT\(nas56a13\)](#)

02:22:17 Kate Cholewa, City of Missoula

02:22:56 Clayton Elliott, Northern Plains Resource Council (NPRC)

[EXHIBIT\(nas56a14\)](#)

02:23:22 Jan Hoem, self

[EXHIBIT\(nas56a15\)](#)

02:27:18 Laulette Hansen, self

[EXHIBIT\(nas56a16\)](#)

02:32:35 Harold Hoem, self

02:34:45 Anne Hedges, Montana Environmental Information Center (MEIC)

02:35:57 Janet Ellis, Montana Audubon (MA)

Informational Testimony: None

Questions from Committee Members and Responses:

02:36:17	Sen. Walker
02:37:06	Ann Hedges, MEIC
02:37:35	Sen. Phillips
02:37:44	Bud Clinch, MCC
02:39:56	Sen. Phillips
02:40:58	Art Noonan, NWE
02:43:03	Sen. Phillips
02:45:08	Rep. McNiven
02:46:42	Sen. Keane
02:47:19	Rep. McNiven
02:47:47	Sen. Rosendale
02:47:56	Bud Clinch
02:48:46	Sen. Tropila
02:49:44	Rep. McNiven
02:51:09	Sen. Kaufmann
02:51:50	Art Noonan
02:53:24	Sen. Kaufmann
02:55:14	Rep. McNiven

Closing by Sponsor:

02:56:04	Rep. McNiven
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ADJOURNMENT

Adjournment: 5:38 PM

Mary Kulawik, Secretary

mk

Additional Document

Additional Documents:

EXHIBIT([nas56aad.pdf](#))

Amendments to House Bill No. 24
2nd Reading Copy

For the Senate Natural Resources Committee

Prepared by Hope Stockwell
March 6, 2013 (10:18am)

1. Page 40.

Following: line 24

"COORDINATION SECTION. Section 36. Coordination

instruction. If both House Bill No. 392 and [this act] are passed and approved, then [section 1] of House Bill No. 392, amending 22-3-432, is void and 22-3-432 must be amended as follows:

"22-3-432. Antiquities permits. (1) A person may not excavate, remove, or restore any heritage property or paleontological remains on lands owned by the state without first obtaining an antiquities permit from the historic preservation officer.

(2) Antiquities permits are to be granted only after careful consideration of the application for a permit and after consultation with the appropriate state agency. Permits are subject to strict compliance with the following guidelines:

(a) Antiquities permits may be granted only for work to be undertaken by reputable museums, universities, colleges, or other historical, scientific, or educational institutions, societies, or persons with a view toward dissemination of knowledge about cultural properties, provided a permit may not be granted unless the historic preservation officer is satisfied that the applicant possesses the necessary qualifications to guarantee the proper excavation of those sites and objects that may add substantially to knowledge about Montana and its antiquities.

(b) The antiquities permit must specify that a summary report of the investigations, containing relevant maps, documents, drawings, and photographs, must be submitted to the historic preservation officer. The historic preservation officer shall determine the appropriate time period allowable between all work undertaken and submission of the summary report.

(3) All Except as provided in subsection (5), all heritage property and paleontological remains collected under an antiquities permit are the permanent property of the state and must be deposited in museums or other institutions within the state or loaned to qualified institutions outside the state, unless otherwise provided for in the antiquities permit.

(4) An antiquities permit is not a substitution for any other type of permit that a state agency may require for other purposes.

(5) Antiquities permits may be granted for the excavation and removal of paleontological remains at Makoshika state park for the purpose of selling the paleontological remains and using revenue from the sale to benefit Makoshika state park.

Antiquities permits granted under this subsection must be used in accordance with rules adopted pursuant to [section 2(2) of House Bill No. 24]."

{ Internal References to 22-3-432:

22-3-421x 22-3-441 x 22-3-442 x 22-3-442x }

*changed
reference*

Insert: "COORDINATION SECTION. Section 37. Coordination

instruction. If both House Bill No. 392 and [this act] are passed and approved, then [section 2] of House Bill No. 392, amending 23-1-102, is void and [section 2 of this act] must read as follows:

"NEW SECTION. Section 2. Powers and duties of board -- rulemaking -- meetings. (1) Except as provided in subsection (2), for state parks, primitive parks, state recreational areas, public camping grounds, state historic sites, state monuments, and other heritage and recreational resources, land, and water administered pursuant to Title 23, chapter 1, and Title 23, chapter 2, parts 1, 4, and 9, the board shall:

(a) set the policies and provide direction to the department for:

(i) the management, protection, conservation, and preservation of these properties, lands, and waters and their appropriate role relative to tourism and the economic health of Montana;

(ii) coordinating, integrating, promoting, and furthering opportunities for education and recreation at these sites, including but not limited to camping, hiking, snowmobiling, off-highway vehicle use, horseback riding, mountain biking, boating, and swimming;

(b) work with the commission to maintain hunting and angling opportunities on these lands and waters;

(c) establish the rules of the department governing the use of these properties and lands. The rules must be adopted in the interest of public health, public safety, public welfare, and protection of property and public resources in regulating recreation, including picnicking, camping, and swimming, and sanitation. These rules are subject to review and approval by the department of public health and human services with regard to issues of public health and sanitation before becoming effective. Copies of the rules must show that endorsement.

(d) review and approve all acquisitions or transfers of interest in these properties, lands, and waters by the department, except as provided in 87-1-209(4);

(e) review and approve the budget of the department for the administration of these properties, lands, and waters prior to its transmittal to the office of budget and program planning;

(f) review and approve construction projects that have an estimated cost of more than \$5,000;

(g) work with local, state, and federal agencies to evaluate, integrate, coordinate, and promote recreational opportunities statewide; and

(h) encourage citizen involvement in management planning for

these properties, lands, and waters.

(2) The board may adopt rules establishing conditions for the use of antiquities permits granted pursuant to 22-3-432(5).

(3) Pursuant to 87-1-301(1), the board does not oversee department activities related to the administration of fishing access sites.

(4) The members of the board shall hold quarterly or other meetings for the transaction of business at times and places considered necessary and proper. The meetings must be called by the presiding officer or by a majority of the board and must be held at the time and place specified in the call for the meeting. A majority of the members constitutes a quorum for the transaction of any business. The board shall keep a record of all the business it transacts. The presiding officer and secretary shall sign all orders, minutes, or documents for the board."

"COORDINATION SECTION. Section 38. Coordination

instruction. If both Senate Bill No. 237 and [this act] are passed and approved and if both amend 23-1-102, then the sections amending 23-1-102 are void and 23-1-102 must be amended as follows:

"23-1-102. Powers and duties of department of fish, wildlife, and parks. (1) The department shall make a study to determine the scenic, historic, archaeological, scientific, and recreational resources of the state. The Subject to 87-1-209, the department may:

(a) by purchase, lease, agreement, or acceptance of donations acquire for the state any areas, sites, or objects that in its opinion should be held, improved, and maintained as state parks, state recreational areas, state monuments, or state historical historic sites; ~~The department, with the consent of the commission, may~~

(b) with the consent of the board, acquire by condemnation, pursuant to Title 70, chapter 30, lands or structures for the purposes provided in 87-1-209(2); and

~~(2)(c) The department may~~ accept in the name of the state, in fee or otherwise, any areas, sites, or objects conveyed, entrusted, donated, or devised to the state.

(2) ~~It~~ The department may accept gifts, grants, bequests, or contributions of money or other property to be spent or used for any of the purposes of this part.

(3) A contract, for any of the purposes of this part, may not be entered into or another obligation incurred until money has been appropriated by the legislature or is otherwise available. ~~If the contract or obligation pertains to acquisition of areas or sites in excess of either 100 acres or \$100,000 in value, the board of land commissioners shall specifically approve the acquisition.~~

(4) The department has jurisdiction, custody, and control of all state parks, recreational areas, public camping grounds, historical historic sites, and monuments, except wayside camps and other public conveniences acquired, improved, and maintained

gives rulemaking
to board instead
of department



adds
reference

by the department of transportation and contiguous to the state highway system. The department may designate lands under its control as state parks, state ~~historical~~ historic sites, or state monuments, or by any other designation that it considers appropriate. The department may remove or change the designation of any area or portion of an area and may name or change the name of any area. The department may lease those portions of designated lands that are necessary for the proper administration of the lands in keeping with the basic purpose of this part."

{ Internal References to 23-1-102:

15-35-108x 15-35-108 x 15-35-108 x 23-1-108 x
23-2-404 x 70-30-102 x} "COORDINATION SECTION. Section

39. Coordination instruction. If Both Senate Bill No. 344 and [this act] are passed and approved, then [section 9 of this act], amending 23-1-102, is void and 23-1-102 must be amended as follows:

"**23-1-102. Powers and duties of department of fish, ~~wildlife, and parks.~~** (1) The department shall make a study to determine the scenic, historic, archaeologic, scientific, and recreational resources of the state. The Subject to 87-1-209, the department may: adds reference

(a) by purchase, lease, agreement, or acceptance of donations acquire for the state any areas, sites, or objects that in its opinion should be held, improved, and maintained as state parks, state recreational areas, state monuments, or state ~~historical~~ historic sites. The department, with the consent of the commission, may

(b) with the consent of the board, acquire by condemnation, pursuant to Title 70, chapter 30, lands or structures for the purposes provided in 87-1-209(2); and

~~(2)(c)~~ (c) The department may accept in the name of the state, in fee or otherwise, any areas, sites, or objects conveyed, entrusted, donated, or devised to the state.

(2) ~~It~~ The department may accept gifts, grants, bequests, or contributions of money or other property to be spent or used for any of the purposes of this part.

(3) A contract, for any of the purposes of this part, may not be entered into or another obligation incurred until money has been appropriated by the legislature or is otherwise available. ~~If the contract or obligation pertains to acquisition of areas or sites in excess of either 100 acres or \$100,000 in value, the board of land commissioners shall specifically approve the acquisition.~~

(4) The department has jurisdiction, custody, and control of all state parks, recreational areas, public camping grounds, ~~historical~~ historic sites, and monuments, except wayside camps and other public conveniences acquired, improved, and maintained by the department of transportation and contiguous to the state highway system. The department may designate lands under its control as state parks, state ~~historical~~ historic sites, or state monuments, or by any other designation that it considers

appropriate. The department may remove or change the designation of any area or portion of an area and may name or change the name of any area. The department may lease those portions of designated lands that are necessary for the proper administration of the lands in keeping with the basic purpose of this part.""

{Internal References to 23-1-102:

15-35-108x 15-35-108 x 15-35-108 x 23-1-108 x
23-2-404 x 70-30-102 x}

Renumber: subsequent sections

- END -

Montana State Legislature

2013 Session

ADDITIONAL DOCUMENTS MAY INCLUDE THE FOLLOWING:

- **Business Report**
- **Roll Call – Attendance**
- **Standing Committee Reports**
- **Tabled Bills**
- **Fiscal Reports etc.**
- **Roll Call Votes**
- **Informational Items**
- **Witness Statements**
- **Any Documents; such as;**
 - ***Petitions if any.**
 - ***Any and all material handed end after the meeting ends.**

**The original is on file at the
Montana Historical Society
and may be viewed there.**

**Montana Historical Society
Archives**

225 N. Roberts

Helena MT 59620-1201

2013 Legislative Scanner Susie Hamilton

BUSINESS REPORT

**MONTANA SENATE
63rd LEGISLATURE - REGULAR SESSION**

SENATE NATURAL RESOURCES COMMITTEE

Date: Friday, March 15, 2013

Place: Capitol

Time: 3:00 PM

Room: 422

BILLS and RESOLUTIONS HEARD:

HB 388 - Revise wood products revolving loan fund - Rep. Mike Cuffe

HB 451 - Revise firewarden laws - Rep. Wylie Galt

HJ 9 - Joint resolution supporting coal - Rep. Jonathan McNiven

EXECUTIVE ACTION TAKEN:

SB 355 - DPAA

HB 37 - Be Concurred In As Amended

HB 106 - Be Concurred In As Amended

HB 291 - Be Concurred In As Amended

HB 359 - Be Concurred In

HB 24 - Be Concurred In As Amended

Comments:



SEN. Chas Vincent, Chair

MONTANA STATE SENATE
Roll Call
NATURAL RESOURCES COMMITTEE

DATE: 3-15-13

<u>NAME</u>	<u>PRESENT</u>	<u>ABSENT/ EXCUSED</u>
SENATOR CHAS VINCENT, CHAIR	✓	
SENATOR JOHN BRENDEN, VICE CHAIR	✓	
SENATOR DEBBY BARRETT	✓	
SENATOR JENNIFER FIELDER	✓	
SENATOR BRAD HAMLETT	✓	
SENATOR VERDELL JACKSON	✓	
SENATOR CHRISTINE KAUFMANN	✓	
SENATOR JIM KEANE	✓	
SENATOR CLIFF LARSEN		Excused
SENATOR MIKE PHILLIPS	✓	
SENATOR RICK RIPLEY	✓	
SENATOR MATTHEW ROSENDALE	✓	
SENATOR MITCH TROPILA	✓	
SENATOR ED WALKER		Excused



SENATE STANDING COMMITTEE REPORT

March 15, 2013

Page 1 of 1

Mr. President:

We, your committee on **Natural Resources** recommend that **Senate Bill 355** (first reading copy -- white) **do pass as amended.**

Signed: _____

A handwritten signature in cursive script, appearing to read "Chas Vincent".

Senator Chas Vincent, Chair

And, that such amendments read:

1. Page 1, line 28 through line 29.

Strike: "does not" on line 28 through "constitute" on line 29

Insert: "constitutes"

2. Page 2, line 3 through line 4.

Strike: subsection (6) in its entirety

Renumber: subsequent subsection

3. Page 2, line 8 through line 9.

Strike: subsection (b) in its entirety

Insert: "(b) subordinates the existing right to all other water rights except those that are exempt from this section and for which there has been neither a claim filed nor a judicial determination sought."

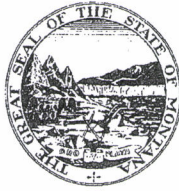
- END -

Committee Vote:

Yes 14, No 0

Fiscal Note Required ____

SB0355001SC.swr



SENATE STANDING COMMITTEE REPORT

March 15, 2013

Page 1 of 1

Mr. President:

We, your committee on **Natural Resources** recommend that **House Bill 37** (third reading copy -- blue) **be concurred in as amended.**

Signed: _____

A handwritten signature in cursive script, appearing to read "Chas Vincent", is written over a horizontal line.

Senator Chas Vincent, Chair

To be carried by Senator Jim Keane

And, that such amendments read:

1. Title, page 1, line 7.

Following: "DATE"

Insert: "AND A TERMINATION DATE"

2. Page 3.

Following: line 27

Insert: "NEW SECTION. **Section 4. Termination.** [This act] terminates July 1, 2019."

3. Page 3, line 18.

Strike: "10"

Insert: "5"

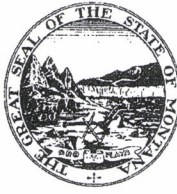
- END -

Committee Vote:

Yes 12, No 2

Fiscal Note Required ☐

HB0037001SC13544.swr



SENATE STANDING COMMITTEE REPORT

March 15, 2013

Page 1 of 1

Mr. President:

We, your committee on **Natural Resources** recommend that **House Bill 291** (third reading copy -- blue) **be concurred in as amended.**

Signed: _____

A handwritten signature in cursive script, appearing to read "Chas Vincent", is written over a horizontal line.

Senator Chas Vincent, Chair

To be carried by Senator Cliff Larsen

And, that such amendments read:

1. Title, page 1, line 4.

Strike: "AND"

2. Title, page 1, line 5.

Following: "MCA"

Insert: "; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE"

3. Page 1.

Following: line 21

Insert: "NEW SECTION. **Section 2. Effective date.** [This act] is effective on passage and approval."

- END -

Committee Vote:

Yes 14, No 0

Fiscal Note Required ☐

HB0291001SC13681.swr



SENATE STANDING COMMITTEE REPORT

March 15, 2013

Page 1 of 1

Mr. President:

We, your committee on **Natural Resources** recommend that **House Bill 359** (third reading copy -- blue) **be concurred in.**

Signed: _____

A handwritten signature in cursive script, appearing to read "Chas Vincent".

Senator Chas Vincent, Chair

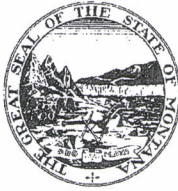
To be carried by Senator Jennifer Fielder

- END -

Committee Vote:

Yes 9, No 4

Fiscal Note Required ☐



SENATE STANDING COMMITTEE REPORT

March 15, 2013

Page 1 of 5

Mr. President:

We, your committee on **Natural Resources** recommend that **House Bill 24** (third reading copy -- blue) **be concurred in as amended.**

Signed: _____

A handwritten signature in cursive script, appearing to read "Chas Vincent", is written over a horizontal line.

Senator Chas Vincent, Chair

To be carried by Senator Jim Keane

And, that such amendments read:

1. Page 40.

Following: line 24

"COORDINATION SECTION. Section 36. Coordination

instruction. If both House Bill No. 392 and [this act] are passed and approved, then [section 1] of House Bill No. 392, amending 22-3-432, is void and 22-3-432 must be amended as follows:

"22-3-432. Antiquities permits. (1) A person may not excavate, remove, or restore any heritage property or paleontological remains on lands owned by the state without first obtaining an antiquities permit from the historic preservation officer.

(2) Antiquities permits are to be granted only after careful consideration of the application for a permit and after consultation with the appropriate state agency. Permits are subject to strict compliance with the following guidelines:

(a) Antiquities permits may be granted only for work to be undertaken by reputable museums, universities, colleges, or other historical, scientific, or educational institutions, societies, or persons with a view toward dissemination of knowledge about cultural properties, provided a permit may not be granted unless the historic preservation officer is satisfied that the applicant possesses the necessary qualifications to guarantee the proper excavation of those sites and objects that may add substantially to knowledge about Montana and its antiquities.

(b) The antiquities permit must specify that a summary

Committee Vote:

Yes 13, No 0

Fiscal Note Required ☐

report of the investigations, containing relevant maps, documents, drawings, and photographs, must be submitted to the historic preservation officer. The historic preservation officer shall determine the appropriate time period allowable between all work undertaken and submission of the summary report.

(3) ~~All~~ Except as provided in subsection (5), all heritage property and paleontological remains collected under an antiquities permit are the permanent property of the state and must be deposited in museums or other institutions within the state or loaned to qualified institutions outside the state, unless otherwise provided for in the antiquities permit.

(4) An antiquities permit is not a substitution for any other type of permit that a state agency may require for other purposes.

(5) Antiquities permits may be granted for the excavation and removal of paleontological remains at Makoshika state park for the purpose of selling the paleontological remains and using revenue from the sale to benefit Makoshika state park. Antiquities permits granted under this subsection must be used in accordance with rules adopted pursuant to [section 2(2) of House Bill No. 24]."

Insert: "COORDINATION SECTION. Section 37. Coordination instruction. If both House Bill No. 392 and [this act] are passed and approved, then [section 2] of House Bill No. 392, amending 23-1-102, is void and [section 2 of this act] must read as follows:

"NEW SECTION. Section 2. Powers and duties of board -- rulemaking -- meetings. (1) Except as provided in subsection (2), for state parks, primitive parks, state recreational areas, public camping grounds, state historic sites, state monuments, and other heritage and recreational resources, land, and water administered pursuant to Title 23, chapter 1, and Title 23, chapter 2, parts 1, 4, and 9, the board shall:

(a) set the policies and provide direction to the department for:

(i) the management, protection, conservation, and preservation of these properties, lands, and waters and their appropriate role relative to tourism and the economic health of Montana;

(ii) coordinating, integrating, promoting, and furthering opportunities for education and recreation at these sites, including but not limited to camping, hiking, snowmobiling, off-highway vehicle use, horseback riding, mountain biking, boating, and swimming;

(b) work with the commission to maintain hunting and angling opportunities on these lands and waters;

(c) establish the rules of the department governing the use of these properties and lands. The rules must be adopted in the interest of public health, public safety, public welfare, and protection of property and public resources in regulating recreation, including picnicking, camping, and swimming, and

sanitation. These rules are subject to review and approval by the department of public health and human services with regard to issues of public health and sanitation before becoming effective. Copies of the rules must show that endorsement.

(d) review and approve all acquisitions or transfers of interest in these properties, lands, and waters by the department, except as provided in 87-1-209(4);

(e) review and approve the budget of the department for the administration of these properties, lands, and waters prior to its transmittal to the office of budget and program planning;

(f) review and approve construction projects that have an estimated cost of more than \$5,000;

(g) work with local, state, and federal agencies to evaluate, integrate, coordinate, and promote recreational opportunities statewide; and

(h) encourage citizen involvement in management planning for these properties, lands, and waters.

(2) The board may adopt rules establishing conditions for the use of antiquities permits granted pursuant to 22-3-432(5).

(3) Pursuant to 87-1-301(1), the board does not oversee department activities related to the administration of fishing access sites.

(4) The members of the board shall hold quarterly or other meetings for the transaction of business at times and places considered necessary and proper. The meetings must be called by the presiding officer or by a majority of the board and must be held at the time and place specified in the call for the meeting. A majority of the members constitutes a quorum for the transaction of any business. The board shall keep a record of all the business it transacts. The presiding officer and secretary shall sign all orders, minutes, or documents for the board."

"COORDINATION SECTION. Section 38. Coordination

instruction. If both Senate Bill No. 237 and [this act] are passed and approved and if both amend 23-1-102, then the sections amending 23-1-102 are void and 23-1-102 must be amended as follows:

"23-1-102. Powers and duties of department of fish, wildlife, and parks. (1) The department shall make a study to determine the scenic, historic, archaeologic, scientific, and recreational resources of the state. The Subject to 87-1-209, the department may:

(a) by purchase, lease, agreement, or acceptance of donations acquire for the state any areas, sites, or objects that in its opinion should be held, improved, and maintained as state parks, state recreational areas, state monuments, or state historical historic sites.; ~~The department, with the consent of the commission, may~~

(b) with the consent of the board, acquire by condemnation, pursuant to Title 70, chapter 30, lands or structures for the purposes provided in 87-1-209(2).; and

~~(2)(c) The department may accept in the name of the state,~~

in fee or otherwise, any areas, sites, or objects conveyed, entrusted, donated, or devised to the state.

(2) ~~It~~ The department may accept gifts, grants, bequests, or contributions of money or other property to be spent or used for any of the purposes of this part.

(3) A contract, for any of the purposes of this part, may not be entered into or another obligation incurred until money has been appropriated by the legislature or is otherwise available. ~~If the contract or obligation pertains to acquisition of areas or sites in excess of either 100 acres or \$100,000 in value, the board of land commissioners shall specifically approve the acquisition.~~

(4) The department has jurisdiction, custody, and control of all state parks, recreational areas, public camping grounds, ~~historical~~ historic sites, and monuments, except wayside camps and other public conveniences acquired, improved, and maintained by the department of transportation and contiguous to the state highway system. The department may designate lands under its control as state parks, state ~~historical~~ historic sites, or state monuments, or by any other designation that it considers appropriate. The department may remove or change the designation of any area or portion of an area and may name or change the name of any area. The department may lease those portions of designated lands that are necessary for the proper administration of the lands in keeping with the basic purpose of this part."

"COORDINATION SECTION. Section 39. Coordination

instruction. If Both Senate Bill No. 344 and [this act] are passed and approved, then [section 9 of this act], amending 23-1-102, is void and 23-1-102 must be amended as follows:

"23-1-102. Powers and duties of department of fish, wildlife, and parks. (1) The department shall make a study to determine the scenic, historic, archaeologic, scientific, and recreational resources of the state. The Subject to 87-1-209, the department may:

(a) by purchase, lease, agreement, or acceptance of donations acquire for the state any areas, sites, or objects that in its opinion should be held, improved, and maintained as state parks, state recreational areas, state monuments, or state ~~historical~~ historic sites; ~~The department, with the consent of the commission, may~~

(b) with the consent of the board, acquire by condemnation, pursuant to Title 70, chapter 30, lands or structures for the purposes provided in 87-1-209(2); and

~~(2)(c)~~ The department may accept in the name of the state, in fee or otherwise, any areas, sites, or objects conveyed, entrusted, donated, or devised to the state.

(2) ~~It~~ The department may accept gifts, grants, bequests, or contributions of money or other property to be spent or used for any of the purposes of this part.

(3) A contract, for any of the purposes of this part, may not be entered into or another obligation incurred until money

has been appropriated by the legislature or is otherwise available. ~~If the contract or obligation pertains to acquisition of areas or sites in excess of either 100 acres or \$100,000 in value, the board of land commissioners shall specifically approve the acquisition.~~

(4) The department has jurisdiction, custody, and control of all state parks, recreational areas, public camping grounds, ~~historical~~ historic sites, and monuments, except wayside camps and other public conveniences acquired, improved, and maintained by the department of transportation and contiguous to the state highway system. The department may designate lands under its control as state parks, state ~~historical~~ historic sites, or state monuments, or by any other designation that it considers appropriate. The department may remove or change the designation of any area or portion of an area and may name or change the name of any area. The department may lease those portions of designated lands that are necessary for the proper administration of the lands in keeping with the basic purpose of this part.""

Renumber: subsequent sections

- END -

MONTANA STATE SENATE
Roll Call Vote
NATURAL RESOURCES COMMITTEE

DATE 3-15-13 BILL NO. ^{HB}37 MOTION NO. _____
MOTION: _____

Concur in Amendment 003702-951

NAME	AYE	NO	If Proxy Vote, check here & include signed Proxy Form with minutes
SENATOR JOHN BRENDEN, VICE CHAIR		✓	
SENATOR DEBBY BARRETT		✓	
SENATOR JENNIFER FIELDER	✓		
SENATOR BRAD HAMLETT	✓		
SENATOR VERDELL JACKSON		✓	
SENATOR CHRISTINE KAUFMANN	✓		
SENATOR JIM KEANE	✓		
SENATOR CLIFF LARSEN	✓		
SENATOR MIKE PHILLIPS	✓		
SENATOR RICK RIPLEY	✓		
SENATOR MATTHEW ROSENDALE	✓		
SENATOR MITCH TROPILA	✓		
SENATOR ED WALKER		✓	PP
SENATOR CHAS VINCENT, CHAIR		✓	P

9-5

MONTANA STATE SENATE
Roll Call Vote
NATURAL RESOURCES COMMITTEE

HB

DATE 3-15-13 BILL NO 37 MOTION NO. _____
MOTION: _____

Be Concurred In As Amended

NAME	AYE	NO	If Proxy Vote, check here & include signed Proxy Form with minutes
SENATOR JOHN BRENDEN, VICE CHAIR	✓		
SENATOR DEBBY BARRETT	✓		
SENATOR JENNIFER FIELDER	✓		
SENATOR BRAD HAMLETT	✓		
SENATOR VERDELL JACKSON	✓		
SENATOR CHRISTINE KAUFMANN		✓	
SENATOR JIM KEANE	✓		
SENATOR CLIFF LARSEN	✓		
SENATOR MIKE PHILLIPS	✓		
SENATOR RICK RIPLEY	✓		
SENATOR MATTHEW ROSENDALE	✓		
SENATOR MITCH TROPILA		✓	
SENATOR ED WALKER	✓		P
SENATOR CHAS VINCENT, CHAIR	✓		P

12-2
Sen. Keane carries
bill

MONTANA STATE SENATE
Roll Call Vote
NATURAL RESOURCES COMMITTEE

DATE 3-15-13 BILL NO HB 106 MOTION NO. _____
MOTION: _____

BE CONCURRED AS AMENDED

NAME	AYE	NO	If Proxy Vote, check here & include signed Proxy Form with minutes
SENATOR JOHN BRENDEN, VICE CHAIR	✓		
SENATOR DEBBY BARRETT	✓		
SENATOR JENNIFER FIELDER	✓		
SENATOR BRAD HAMLETT		✓	
SENATOR VERDELL JACKSON	✓		
SENATOR CHRISTINE KAUFMANN	✓		
SENATOR JIM KEANE	✓		
SENATOR CLIFF LARSEN	✓		
SENATOR MIKE PHILLIPS	✓		
SENATOR RICK RIPLEY		✓	
SENATOR MATTHEW ROSENDALE	✓		
SENATOR MITCH TROPILA	✓		
SENATOR ED WALKER	✓		P
SENATOR CHAS VINCENT, CHAIR	✓		P

12-2

SEN. ROSENDALE
CARRIES BILL

MONTANA STATE SENATE
Roll Call Vote
NATURAL RESOURCES COMMITTEE

DATE 3-14-13 BILL NO ^{HB}291 MOTION NO. _____
MOTION: _____

BE amended HB 291 101.95A

NAME	AYE	NO	If Proxy Vote, check here & include signed Proxy Form with minutes
SENATOR JOHN BRENDEN, VICE CHAIR	✓		
SENATOR DEBBY BARRETT	✓		
SENATOR JENNIFER FIELDER	✓		
SENATOR BRAD HAMLETT	✓		
SENATOR VERDELL JACKSON	✓		
SENATOR CHRISTINE KAUFMANN	✓		
SENATOR JIM KEANE	✓		
SENATOR CLIFF LARSEN	✓		
SENATOR MIKE PHILLIPS	✓		
SENATOR RICK RIPLEY	✓		
SENATOR MATTHEW ROSENDALE	✓		
SENATOR MITCH TROPILA	✓		
SENATOR ED WALKER		✓	P
SENATOR CHAS VINCENT, CHAIR		✓	P

12-2

MONTANA STATE SENATE
Roll Call Vote
NATURAL RESOURCES COMMITTEE

DATE 3-15-13 ^{HB} BILL NO 359 MOTION NO. _____
MOTION: _____

BE CONCURRED IN

<u>NAME</u>	<u>AYE</u>	<u>NO</u>	If Proxy Vote, check here & include signed Proxy Form with minutes
SENATOR JOHN BRENDEN, VICE CHAIR	✓		
SENATOR DEBBY BARRETT	✓		
SENATOR JENNIFER FIELDER	✓		
SENATOR BRAD HAMLETT			
SENATOR VERDELL JACKSON	✓		
SENATOR CHRISTINE KAUFMANN		✓	
SENATOR JIM KEANE	✓		
SENATOR CLIFF LARSEN		✓	
SENATOR MIKE PHILLIPS		✓	
SENATOR RICK RIPLEY	✓		
SENATOR MATTHEW ROSENDALE	✓		
SENATOR MITCH TROPILA		✓	
SENATOR ED WALKER	✓		P
SENATOR CHAS VINCENT, CHAIR	✓		P

9-4

SEN. Fielder carries
the bill.

MONTANA STATE SENATE
Roll Call Vote
NATURAL RESOURCES COMMITTEE

DATE 3-15-13 BILL NO HB 24 MOTION NO. _____
MOTION: _____

BE CONCURRED in - amendment 02410.9hs

NAME	AYE	NO	If Proxy Vote, check here & include signed Proxy Form with minutes
SENATOR JOHN BRENDEN, VICE CHAIR	✓		
SENATOR DEBBY BARRETT	✓		
SENATOR JENNIFER FIELDER	✓		
SENATOR BRAD HAMLETT	_____		
SENATOR VERDELL JACKSON	✓		
SENATOR CHRISTINE KAUFMANN	✓		
SENATOR JIM KEANE	✓		
SENATOR CLIFF LARSEN	✓		
SENATOR MIKE PHILLIPS	✓		
SENATOR RICK RIPLEY	✓		
SENATOR MATTHEW ROSENDALE	✓		
SENATOR MITCH TROPILA	✓		
SENATOR ED WALKER	✓		P
SENATOR CHAS VINCENT, CHAIR	✓		P

Exc.

13-0

MONTANA STATE SENATE
Roll Call Vote
NATURAL RESOURCES COMMITTEE

DATE 3-15-13 BILL NO. HB 24 MOTION NO. _____
MOTION: _____

BE CONCURRED IN AS AMENDED

NAME	AYE	NO	If Proxy Vote, check here & include signed Proxy Form with minutes
SENATOR JOHN BRENDEN, VICE CHAIR	✓		
SENATOR DEBBY BARRETT	✓		
SENATOR JENNIFER FIELDER	✓		
SENATOR BRAD HAMLETT	✓		
SENATOR VERDELL JACKSON	✓		
SENATOR CHRISTINE KAUFMANN	✓		
SENATOR JIM KEANE	✓		
SENATOR CLIFF LARSEN	✓		
SENATOR MIKE PHILLIPS	✓		
SENATOR RICK RIPLEY	✓		
SENATOR MATTHEW ROSENDALE	✓		
SENATOR MITCH TROPILA	✓		
SENATOR ED WALKER	✓		P
SENATOR CHAS VINCENT, CHAIR	✓		P

EXC.

13-0

SEN. KEANE CARRIES
THE BILL

SENATE PROXY

I, Senator Chas Vincent, hereby authorize Senator Brenden to vote my proxy before the Senate Natural Resources meeting held on March 15th, 2013.

Chas Vincent

Senator Signature

3/15/13
Date

Said authorization is as follows: (mark only one)

- ☒ All votes, including amendments.
- ☐ All votes as directed below on the listed bills, and all other votes.
- ☐ Votes only as directed below.

	Bill No./Amendment No.	Aye	No
amend.	035502. qjk	X	
amend.	035503. qsm	X	
amend.	035501. qjk	X	
	SB355 DPAA	X	
amend.	HB 003701. ASN	X	
amend.	003702. ASN	X	X
	HB 37- concurred in qS amended	X	
amend.	HB 010602. qsn	X	
	HB 106 concurred in qS amended	X	
amend.	HB 029101. qsn		X
	HB 291- concurred in qS amended	X	

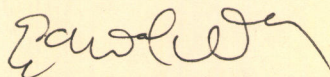
HB 359-BE concurred in X

HB 24-BE concurred
as amended X

amend. HB 002410. qhs X

SENATE PROXY

I, Senator Ed Walker, hereby authorize Senator Brenden to vote my proxy before the Senate Natural Resources meeting held on March 15, 2013.



Senator Signature

3/15/13

Date

Said authorization is as follows: (mark only one)

- ☐ All votes, including amendments.
- ☐ All votes as directed below on the listed bills, and all other votes.
- ☐ Votes only as directed below.

	Bill No./Amendment No.	Aye	No
amend.	035502. ajk	X	
amend.	035503. a sm	X	
amend.	035501. ajk	X	
	SB 355 f DPAA	X	
amend.	HB003701. ASN	X	
amend.	00 3702. ASN	X	X
	HB37-concurred in as amended	X	
amend.	HB0106 02. ASN	X	
	HB 106 concurred in as amended	X	
amend.	HB 029101. ASN		X
	HB 291- concurred in as amended	X	
	HB 359-BE concurred in	X	
	HB 24 -BE concurred as amended	X	
amend	HB 002410. ahs	X	

MONTANA STATE SENATE

SENATE NATURAL RESOURCES COMMITTEE

HB 388 - Revise wood products revolving loan fund

PLEASE PRINT

[illegible]

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

MONTANA STATE SENATE
Visitors Register
SENATE NATURAL RESOURCES COMMITTEE

Friday, March 15, 2013

HB 451 - Revise firewarden laws

Sponsor: Rep. Wylie Galt

PLEASE PRINT

Name	Representing	Support	Oppose	Info
Pick Seidlitz	MT County Firewardens ^{Assoc}	X		
JOE LAMSON	DNRC	X		

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

MONTANA STATE SENATE
Visitors Register
SENATE NATURAL RESOURCES COMMITTEE

Friday, March 15, 2013

HJ 9 - Joint resolution supporting coal

Sponsor: Rep. Jonathan McNiven

*Grail Abercrombie
Montana's for Responsible Energy Development Support*

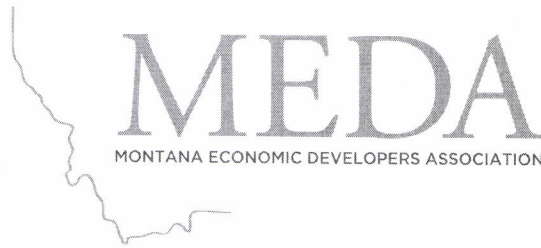
Jessie Wither
PLEASE PRINT

*Montana Contractors Assoc
Great Northern Properties*

Name	Representing	Support	Oppose	Info
<i>Raymond Willms</i>	<i>mt st Building & Const Trngs</i>	<i>X</i>		
<i>Harold Hoem</i>	<i>self</i>		<i>X</i>	
<i>Jan Hoem</i>	<i>self</i>		<i>X</i>	
<i>Laulette HANSEN</i>	<i>self</i>		<i>X</i>	
<i>Julie DEVLIN</i>	<i>self</i>		<i>X</i>	
<i>Dan FLYNN</i>	<i>TPEW</i>	<i>X</i>		
<i>Laura Feist</i>	<i>Montana Mining</i>	<i>X</i>		
<i>Glenn Oppel</i>	<i>Montana Chamber of Commerce</i>	<i>X</i>		
<i>BUD CLUNCH</i>	<i>MCC</i>	<i>X</i>		
<i>Tom BERRUM</i>	<i>UNITED TRANSPORTATION Union</i>	<i>X</i>		
<i>DB KENNER</i>	<i>BLAT</i>	<i>X</i>		
<i>Bob Gilbert</i>	<i>MT Assoc of Oil, Gas & Coal Counties</i>	<i>X</i>		
<i>Al ELblad</i>	<i>MT AFL-CIO</i>	<i>X</i>		
<i>John Roerber</i>	<i>IBB Local 11</i>	<i>X</i>		
<i>Jess LaBatt</i>	<i>IBB Local 11</i>	<i>X</i>		
<i>DARREN BROWN</i>	<i>IBD Local 11</i>	<i>X</i>		
<i>Bertram Ratz</i>	<i>BNDP</i>	<i>X</i>		
<i>MARK LAMBRECHT</i>	<i>TSRIA</i>	<i>X</i>		
<i>Gary Wicns</i>	<i>MX-Elec-Co-ops' Assn</i>	<i>X</i>		
<i>Janet Ellis</i>	<i>MT Audubon</i>		<i>X</i>	
<i>HENRY KRIEGER</i>	<i>AM. FOR PROSPERITY-</i>	<i>X</i>		

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

Christ Nymn
Area COAL
Anna GRAMOTER
Todo O'Hair
cloud Peak Energy



Additional
doc.

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MEDA represents over 230 members, who are actively involved in local economic activity, community development, job retention and job creation for Montana.

March 8, 2013

TO: Chairman Chas Vincent and members of the Senate Natural Resources Committee

RE: HB388 AN ACT LIMITING LOANS FROM MONEY REPAID TO THE DISTRESSED WOOD PRODUCTS INDUSTRY REVOLVING LOAN ACCOUNT TO INDIVIDUALS OR SMALL BUSINESSES RELATED TO WOOD PROCESSING

Montana Economic Developers Association (MEDA) stands in support of HB388 which would limit loans from money repaid to the distressed wood products industry revolving loan account. As the bill reads, funds would be reserved for businesses involved in wood processing.

While MEDA is in support of this bill and greatly values revolving loan funds as an economic development tool, MEDA recommends limiting the number of years these funds are reserved for the woods product industry. While currently the wood products industry needs support, it may be that in two to four years another primary sector industry would need bolstering. MEDA recommends limiting the number of years funds are reserved for the wood processing industry, thus allowing for assistance as needed in the near future.

Thank you for your support of HB388 with the recommendation that the years be limited as it is in the best interest of Montana.

For MEDA,

Tracy McIntyre, President

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